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ABSTRACT

Wisconsin encompasses an astonishingly representative illustration of the total historical development of federal Indian policy and Indian reactions to it. Wisconsin's Indian population (at least 25,000 people) is the third largest east of the Mississippi River and offers great diversity (3 major linguistic stocks, 6 broad tribal affiliations, and 12 separately identified Indian societies covering the whole range of experiments in Indian policy). During the 1970's the pattern in Wisconsin typified the national picture: Indian students badgered university administrations for Indian counselors and Indian programs; Indian groups protested museum displays of sacred objects and Indian skeletons; and Indians called attention to a wide range of urban problems. Perhaps the greatest achievement amidst agitation and quiet pressure by Indian people was the federal government's gradual realization it could not just forget Indians who lived in cities. Both on reservations and in cities Indians have learned to tap federal and state funding. Indians are becoming well informed about various federal title programs, cost sharing, and other aspects of grantsmanship, and are learning the responsibilities of fiscal accountability. Chapter headings are Wisconsin Indian Lands, Federal Indian Policy, Reservation Administration, The Twentieth Century, The Menominee Struggle, The Ojibwa, The Milwaukee Scene, and The Issue of Treaties. (BRR)

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WISCONSIN INDIANS

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WISCONSIN INDIANS

By

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The State Historical Society of Wisconsin
Madison : 1982

On the cover: *Yellow Thunder, a chief of the Winnebago born about 1774, figured prominently in the early history of southern Wisconsin. In 1828 he and his wife were members of a party of Winnebago who interviewed President Andrew Jackson in Washington. Forcibly removed to Iowa with others of his tribe, he soon returned to Wisconsin and settled on a forty-acre homestead in Sauk County. He died there in 1874 and was buried in Delton Township. The Sauk County Historical Society erected a monument to Yellow Thunder on his grave site.* SHSW X3 11633

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Preface

AS EARLY AS 1961 it was obvious that there was a new ferment among Indian people to secure their legal and political rights and gain greater control of their community affairs, but it was still possible in 1969, when the first version of this publication appeared, to present a fairly tidy account of Wisconsin's Indians from the perspective of national policy. Today the picture is decidedly untidy, at least from a writer's point of view—and certainly exciting. The 1969 publication was devoted largely to the effects of governmental action in regard to Indian groups. The emphasis must now shift to Indian reaction in employing new tactics to deal with old problems. This, in turn, has stimulated new reactions on the part of non-Indians to pose further challenges for Indian people.

It was so difficult to arrive at a readily comprehensible format that I was tempted simply to write a continuation of the earlier account. Recent activities, however, stem from conditions created during the many years since the beginning of federal Indian policy. This historical foundation is still vital to an understanding of "Indian lives and lands," and is probably desirable as a handy review with additional data for people familiar with the earlier publication. As it is, only the bare outlines of major developments can be presented in an account whose main purpose is to serve as a brief introductory overview. Furthermore, many matters are still pending, and are likely to give rise to future, but as-yet-unknown ramifications. I hope that readers will find this background review helpful in following forthcoming news stories on Indian affairs.

Besides the problems of trying to find a satisfactory path through a mass of complex and dynamic information, I faced new research problems. Previously, I drew upon standard historical sources. Data since 1969 have been derived largely from the newspaper clipping file maintained in the Anthropology office of the Milwaukee Public Museum, unpublished personal notes and correspondence relating to my own observations of some of the events reported, and a great many telephone calls to friends among the Wisconsin tribes, at the Bureau of Indian Affairs in Washington, the Great Lakes Superin-

tendency in Ashland, Wisconsin, the Native American Rights Fund in Boulder, Colorado, and other national as well as local Indian organizations.

To list all the people who helped me in preparing this publication would require a booklet in itself, but I do want to acknowledge my great debt of gratitude to them as a group. At the same time, of course, I must assume personal responsibility if I am in error on any matters discussed and for interpretive observations.

N.O.L.

CONTENTS

Preface	3
Overview	7
Wisconsin Indian Lands	9
Federal Indian Policy	14
Reservation Administration	21
The Twentieth Century	24
The Menominee Struggle	51
The Ojibwa	54
The Milwaukee Scene	56
The Issue of Treaties	57
Reference Material	65

MAPS pages 10 and 18

ILLUSTRATIONS pages 27 through 40

Overview

THE BOUNDARIES of the state of Wisconsin encompass an astonishingly representative illustration of the total historical development of federal Indian policy and Indian reaction to it. Wisconsin's Indian population today, at least 25,000 people,* is the third largest east of the Mississippi River. North Carolina and New York have more Indians, but Wisconsin includes a greater variety of tribal and linguistic proveniences and administrative complications. Many western states, of course, have much larger Indian populations; but only a few—notably Alaska, Arizona, California, New Mexico, and Oklahoma—offer more diversity than Wisconsin's three major linguistic stocks, six broad tribal affiliations, and twelve separately identified Indian societies covering the whole range of experiments in Indian policy, from the founding of the republic to the present day.

In Wisconsin, as elsewhere, half or more of the tribal population resides in cities, primarily Milwaukee, although Green Bay and La Crosse have long had significant numbers of Indian residents and in recent years Madison has attracted more Indian people. There are more than a dozen formal intertribal organizations in Milwaukee alone, the oldest founded in 1937 with the rest having sprung up since the late 1960's and early 1970's to serve Indian people in regard to communication, education, health, housing, employment, and social activities. A number of informal tribal and inter-tribal associations also provide recreational opportunities, material assistance, and useful information. Although most of these urban-based Indians come from northern Wisconsin, the city also attracts Indian people from all over America. Similarly, members of Wisconsin tribes can be found in other major urban Indian communities such as Chicago, Cleveland, Dallas, Detroit, Los Angeles, New York, and San Francisco.

Because they were generally lost to view in the cities, urban Indians have often been deemed by the public at large and even the Bureau of Indian Affairs (BIA) as "assimilated," and therefore no longer part of the so-called "Indian problem." But such is not necessarily the case. Although a certain percentage of Indians are regu-

*Statistics on Indian population can only be approximate. I have interpolated from the 1970 census data and statistics from the Milwaukee Indian Health Board and other sources.

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larly absorbed into the American mainstream, "city Indians" for the most part must still be counted as Indians. Since the late 1960's Indian people have made their special concerns increasingly visible in urban areas as well as in their rural homelands. In the cities, they tend to be travelers, visitors, and commuters exploiting urban, industrial opportunities without the same commitment of other Americans, black and white, whose historic traditions define migration to the city as a radical, irreversible change in their manner of living. Even home-owning city Indians maintain their tribal and family ties. The automobile, telephone, and tape recorder are part of modern Indian culture—just as that other European import, the horse, was incorporated into Indian culture centuries ago. Indian people who spend most of their working lives in the city commonly look forward to retirement "back on the rez."

All this is hardly surprising when we recall that at the time of European contact, and right up through the early treaty period which created the reservations, North American Indians were hunters and gatherers. In the perspective of the worldwide diffusion of agriculture, native peoples north of Mexico were relatively recent food producers. Gardeners rather than farmers, they were still dependent on the hunt for animal protein and used many natural resources for a variety of purposes. Their only domesticated animal was the dog, occasionally eaten at religious feasts but kept mainly as watch dogs, pets, and, on the Plains, as a pack animal. Gardening was chancy, at best, in the northern Wisconsin areas. The complex of semitropical crops—corn, beans, squash, and tobacco— had been adapted selectively to ever-shorter growing seasons as agriculture diffused first out of Mexico to the lower Mississippi valley and then to more northerly areas.

For Indian people, survival depended on mobility, resourcefulness, and adaptability, coupled with a strong sense of communal responsibility to share in lean times and times of abundance. The economics of family life were centripetal, in contrast to the centrifugal nature of thoroughly agrarian households. Individually or in task groups, Indians frequently moved out for varying lengths of time from settled village or semi-permanent camp to utilize the environment in various ways according to season and to bring back the results of their efforts to the home place. Widespread trade networks existed to move items great distances from their places of origin.

Although increasing numbers of Indian people now spend more time in the cities, this is less a new phenomenon than a result of Indian population growth exceeding localized community re-

sources, making it necessary for them to forage on a wider scale and to develop and apply new skills. There are often enormous discrepancies between the number of people listed on the tribal roll and those actually resident in the tribal settlement at any one time. Yet, to understand the Indian scene and its historical antecedents, a close account must be taken of the modern tribal communities as fundamental social and cultural foci of Indian life.

Wisconsin Indian Lands

CHIPPEWA (also called Ojibwa) communities are scattered from the St. Lawrence River in Canada across northern Michigan and Minnesota, North Dakota, Montana, and Saskatchewan. This distribution reflects a westerly expansion of the Ojibwa, largely in historic times, to find new fur-trapping resources.

Across the northern part of Wisconsin are six Chippewa reservations. Bad River in Ashland County, Lac du Flambeau largely in Vilas but partly in Iron County, and Lac Court Oreilles in Sawyer County are fair-sized areas according to the boundaries shown on standard maps, encompassing 125,000 acres at Bad River and about 70,000 acres each at the other two reservations. Yet closer inspection reveals that within the boundaries of each reservation is a checkerboard of white-owned property, taxed by the state, equal to or exceeding the amount of Indian land held in trust under the jurisdiction of the federal government. Furthermore, in some cases title to Indian land is held by individuals, and in other cases by the tribe.

The Chippewa reservations of Red Cliff in Bayfield County and Mole Lake in Forest County are tiny by comparison: under 10,000 and 2,000 acres respectively. All of Mole Lake is tribally held land, but one-third of Red Cliff is held under individual Indian title. The St. Croix reservation, also tribal land and embracing about the same acreage as Mole Lake, is scattered in five small parcels across Burnett, Polk, and Barron counties. Each Chippewa reservation is separately administered with its own locally elected tribal governing organization.

Near the Mole Lake Chippewa reservation in Forest County reside Potawatomi Indians, whose nearly 15,000 acres are held as tribal land under federal trust; but the Indian residences are dispersed over some twenty miles with white neighbors between them. These Potawatomi have their own tribal organization, similar to those of the Chippewa groups. Southwest of the Forest County Potawatomi are a few other Potawatomi families who live in Wood County on

MAP 1

WISCONSIN'S INDIANS

RED CLIFF CHIPPEWA
1854 Treaty: 7,321 acres.
1978: 7,267 acres.
(5,122 tribal; 2,145 allotted)
BAD RIVER CHIPPEWA
1854 Treaty: 124,332 acres.
1978: 41,802 acres.
(8,325 tribal; 33,477 allotted)
LAC COURT OREILLES CHIPPEWA
1854 Treaty: 70,000 acres.
1978: 30,529 acres.
(3,945 tribal; 26,584 allotted)
ST. CROIX CHIPPEWA
Landless until 1934.
1978: 1,715 acres. (1,200 tribal; 515 allotted)
LAC DU FLAMBEAU CHIPPEWA
1854 Treaty: c. 70,000 acres.
1978: 40,479 acres.
(25,152 tribal; 15,327 allotted)
MOLE LAKE CHIPPEWA
1855: Promised 12 sq. miles.
1934: Granted c. 1,700 acres
FOREST COUNTY POTAWATOMI
Landless to 1913, when granted 14,439 acres.
1978: 11,267 tribal; 400 allotted.
MENOMINEE
1854 Treaty: 276,400 acres, reduced by 1856 Treaty to 232,400 acres.
Tribal status terminated, 1961-1973.
Tribal status restored, 1973, c. 230,000 acres, largely tribal.
Menominee County
WINNEBAGO*
Settlements
and scattered households.
During 18'0's and 1880's each family took 40-to-60-acre Indian homestead.
1978: 3,673 acres of homestead land. (Since 1962, tribe has acquired c. 554 acres for housing at Wisconsin Dells, Tomah, Black River Falls)
STOCKBRIDGE-MUNSEE
1856 Treaty: 44,000 acres (from Menominee reservation of 1854).
Almost landless by 1930's, when granted 15,320 acres.
(About 3,450 tribal; title to 11,800 held by U.S. Dept. of Agriculture)
ONEIDA
1838 Treaty: 65,000 acres.
By 1934, less than 1,000 acres left when granted land.
1978: 2,581 acres.
(2,108 tribal; 473 allotted)
*Some individuals among Kansas Potawatomi have inherited shares in homesteads through intermarriage with Winnebago.
Map by Judy Patenaude

rented or purchased property, the same as the local whites. They are, nevertheless, federally recognized Indians, and though they have lived in Wisconsin for several generations they continue to be enrolled at the Potawatomi reservation at Mayetta, Kansas. Potawatomi communities are also found in Canada, upper and lower Michigan, and Oklahoma. The Potawatomi expanded along both the eastern and western shores of Lake Michigan, partly in response to the fur trade of the seventeenth and eighteenth centuries. They gradually replaced the Ottawa as middlemen in the fur trade between other tribes and the Europeans. The Potawatomi were more dependent upon gardening and settled villages than the Chippewa, and their tribal organization was accordingly more complex. (Legend connects the Ottawa, the Chippewa, and the Potawatomi as the "Three Fires" springing from a common origin, but this has been questioned in view of linguistic diversity and social organizational patterns which distinguish Potawatomi sharply from the other two tribes.) Those Potawatomi located west of the Mississippi were removed there by the government in the course of nineteenth-century treaties when the tribe relinquished the eastern homeland.

In east-central Wisconsin is the Menominee reservation, which is also Menominee County. The county was created in 1961 when the government terminated its trust relationship with the tribe—with disastrous socio-economic consequences. In 1973 tribal trust status was restored, and the Menominee reservation was re-established. Prior to 1961, the entire reservation of 232,400 acres was held as tribal land. It was diminished by several thousand acres during termination, and now includes white-owned property as well as property owned by Menominee which is taxed. The tribe is currently trying to buy back white-owned property when it goes on the market, and offers Menominee landowners the option to return their land to tribal trust status while continuing to own and use any buildings on the land. (The Menominee story is an important part of the Indian rights movement of the 1970's, and will be taken up in more detail a bit later.) A particular distinction of the Menominee is that they are the oldest known continuous residents in Wisconsin. They remain exclusively a Wisconsin tribe, and still occupy a far northern portion of their original homeland.

Fitting roughly into a jog in the southwest corner of the Menominee reservation in Shawano County is the Stockbridge-Munsee reservation. In 1856, the Menominee ceded two of the twelve townships that made up their reservation to provide a reservation for the Stockbridge. In 1871 this area was reduced to eighteen sections, or about 12,000 acres, by sale under an act of Con-

gress. Like the Chippewa, the Potawatomi, and the Menominee, the Stockbridge-Munsee are of Algonkian linguistic background; but unlike the others they have long been entirely an English-speaking tribe. They are basically Mahican, and were once neighbors and close relatives of the Mohegans and Pequots of the eastern seaboard. Their settlement at Stockbridge, Massachusetts, was one of the very earliest reservations, created in colonial times after the defeat of the coastal tribes by the British in the latter half of the seventeenth century.

In the eighteenth century, the Stockbridge withdrew into New York state to live as neighbors and under the protection of the Oneida. Because of the pressure of white settlement, both they and the Oneida began moving west early in the nineteenth century in a voluntary effort to find a new homeland. In Indiana, where they were promised land by the government, they were joined by the Munsee, a band of the Delaware tribe. The Brotherton of New Jersey, another small Algonkian-speaking group, also moved west, and when the Indiana land negotiations failed all four tribes proceeded on to Wisconsin. The Brotherton opted for citizenship in 1848 and have become assimilated into the Stockbridge-Munsee and white populations, but there are still people in Wisconsin who can trace their ancestry from the Brotherton. The Stockbridge-Munsee reservation, with its own governing body, is similar to the three large Chippewa reservations insofar as broad, original boundaries now encompass a checkerboard of Indian and white lands.

Close to Green Bay in Brown and Outagamie counties is the Oneida reservation, encompassing twelve square miles within its boundaries, of which only a little over 2,500 acres remains Oneida land, for the most part held tribally. The Oneida are a member tribe of the famous League of the Iroquois, and a small contingent remains in the New York homeland. Many Oneida people live and work in the Green Bay-De Pere area but take an active interest in reservation activities and tribal government. The Oneida language, still spoken by older people, is Iroquoian, a major language stock entirely distinct from the varied but related Algonkian languages of the Wisconsin tribes discussed above.

A third distinct language stock, Siouan, is represented by the Winnebago, who have more bilinguals than any other Indian group in the state. The Wisconsin Winnebago, strictly speaking, are not "reservation Indians," but rather descendants of those who stubbornly refused to leave Wisconsin for a western reservation. Their tribal governing organization is separate from that of the reservation Winnebago, who were removed to Nebraska; but people from

the two groups visit each other and intermarry, choosing to enroll their children in one branch of the tribe or the other, usually on the basis of where the family resides. Individually held tracts of Wisconsin Winnebago land are scattered through more than ten Wisconsin counties, and a few are in neighboring counties in Minnesota opposite the La Crosse area. In addition to the dispersed households, there are major Winnebago settlements, most of them on parcels up to a few hundred acres each of tribal land, at Wittenberg, Wisconsin Rapids, Black River Falls, Tomah, La Crosse, and Wisconsin Dells. This unusual pattern resulted from the fact that their resistance to removal finally resulted in the government allowing the Winnebago to take up forty-acre homesteads after 1874. Although this arrangement is not unique to the Wisconsin Winnebago, they happen to be the only Wisconsin tribe which benefited from the homestead alternative to reservations as a federal policy experiment of the nineteenth century. Old residents of Wisconsin, the Winnebago represent a thrust of Siouan speakers from the lower Mississippi valley who entered Wisconsin at least several centuries before white contact.

Besides their distinctive language, the Winnebago possessed an aboriginal culture which was quite different from the surrounding Algonkian speakers in complexity of religious cosmology. The Winnebago also had a dual chieftainship dividing civil and police functions, and a notably strong commitment to gardening and large villages. At about the time of European contact they suffered a series of catastrophes, including warfare with coalitions of Algonkian-speaking enemies and one or more devastating epidemics. We are just beginning to understand the tremendous impact of European diseases on the Native Americans, when infection was borne inland from tribe to tribe ahead of any actual meeting with Europeans. The continued vividness of the effects of disease in the Winnebago oral tradition, and its special mention in the earliest documents regarding the tribe, suggest that they were particularly hard hit because of their concentration in large communities.

The Winnebago became increasingly Algonkianized, particularly in material culture, because in the course of building back population loss they took spouses from among their former enemies and more easterly tribes which sought temporary refuge in Wisconsin during the mid-seventeenth century to escape Iroquois incursions. These Algonkian influences, as well as the economic requirements of the fur trade, encouraged Winnebago expansion and dispersal into smaller village units. They gradually withdrew from their first recorded location in the Green Bay area to fill the lands bounded by

the Rock and Fox-Wisconsin River systems as this territory was vacated during the eighteenth century by newcomers such as the Sauk and Fox, and by such old residents as the Kickapoo and Santee Sioux, all of whom moved farther west.

Federal Indian Policy

SEVERAL VALID generalizations can be made about the evolution of Indian policy in the Wisconsin region. First, it is worth noting that virtually every experiment in the history of Indian policy has been tried out on one tribe or another in Wisconsin, with the result that this state encapsulates much of the history of Indian policy nationally. Second, it seems evident that no matter what the government attempted, and no matter which tribe was involved, the effect was the progressive impoverishment of the Indian peoples. The question arises how all this came about.

American policy toward Indians derives from British precedents, including treaties and reservations. As a result of boundary disputes among the New England colonies regarding land they allegedly bought from the Indians, it was early decided that negotiations with Indian tribes concerning trade, land, and other matters would be the responsibility of the Crown through its designated representatives. Similarly, Indian affairs became a federal rather than a state responsibility under Article I, Section 8 of the United States Constitution. At first, the federal government was most concerned with administering trade with the Indians, but as settlers pressed into the Indians' territory, special treaty commissions negotiated the sale of Indian land with the Indians reserving small parcels as homelands under federal jurisdiction and protection. To deal with the mounting volume of Indian business, a special Indian Office was created within the Department of War in 1824. Gradually enlarged and renamed the Bureau of Indian Affairs, it was transferred to the newly created Department of the Interior in 1849.

Although the price paid for Indian land averaged only about ten cents an acre, American law specified that Indians were to be paid for their land. Contrary to the popular impression, the buying-off (with or without prior hostilities), removal, and containment of Indians showed no orderly progression as the frontier moved westward. Indians resisted not only by force of arms but also by protracted bargaining and their ineffable talent for obfuscation and delay. Few tribes sold all their land at once but, under pressure, relinquished it a parcel at a time, endeavoring to hold out on reduced land bases in their old territories. During the administration

of Andrew Jackson (1829-1837), federal policy was directed toward trying to move Indians entirely out of the eastern United States and resettle them on reservations across the Mississippi River.

Although some treaties contain poetic imagery—"as long as the rivers run"—even the matter-of-fact wording of most treaties leaves no doubt that Indians signed them with the idea of reserving small parts of the country to be held and used as homelands forever, without any date or condition to eventually relinquish them. Obviously, the government made such promises to get negotiations settled as expeditiously as possible. It did not expect to be held to account in perpetuity—or even for very long—on poetic or any other grounds.

But the white treaty makers never came out and said what was clearly in the back of their minds, and the Indian tribes signed the treaties trusting in the words as written. The fact was that in the nineteenth century Indians were dying off faster than they were reproducing and had become accustomed to a wide array of goods manufactured by the white people. What the treaty makers did not anticipate was that by 1900 the Indian demographic decline would level off, and that in the next decade the Indian population would begin making a comeback. The government and non-Indians in general were influenced in their thinking by gross population statistics, which included western tribes just beginning to experience significant white contact and major epidemics. Had the treaty makers glanced eastward at the Indians longest in contact with whites, they would have seen that not only had those Indians not vanished but had ceased decreasing. Natural selection had weeded out those Indians most prone to diseases introduced from Europe. Indian groups assimiliated individuals of European ancestry and remained Indians, just as the Europeans assimilated individuals of Indian ancestry without losing their social identity. The admixture of European with Indian genes may have conferred some resistance to European diseases on the surviving Indians. Many tribes were wiped out on the eastern seaboard, but a surprising number remain. Some, like the Pamunkey of Virginia, reside on state-administered reservations, legacies of the colonial past. Others simply persist as Indian enclaves among white neighbors. In some cases, remnants of old tribes regrouped to form new social entities, for example the Stockbridge-Munsee who ended up in Wisconsin.

If promises contained in treaties and other legal agreements were made carelessly by the government, they are still a central issue for Indian people. In addition to the government's basing policy on a superficial reading of population statistics, it also expected the white way of life to prevail in phasing out Indian distinctiveness.

Few whites noticed that Indians acquired new items in the traditional spirit of hunter adaptability, picking and choosing what they could rework to make peculiarly their own. Since time immemorial, Indians had depended on trade and travel for things they did not produce or find in their own territories; witness such examples as shells from the Gulf of Mexico in prehistoric sites in Wisconsin, and artifacts made of Lake Superior copper in the Ohio valley. Indians discovered new resources and adapted to new conditions as they crossed the Bering Strait and spread out from the North as arctic and sub-arctic hunters to live in temperate, desert, and tropical regions. Indian peoples in Mexico eventually discovered the principle of domestication at about the same time the discovery was made independently in the Old World. On the eve of European contact, Native Americans had long experimented with new ideas and materials, the different groups incorporating innovations from one another to suit their particular interests and needs. They had formal procedures to establish contracts for trade, alliance for mutual defense, and other purposes. They therefore dealt with Europeans as they would with representatives of different Indian groups.

In the Wisconsin region, as elsewhere, compacts and treaties were entered into by the various tribes and a succession of European powers. For the most part the Wisconsin tribes allied themselves first with the French against the British, and, after 1763, when the French acknowledged defeat in the French and Indian War, with the British against the Americans in the Revolution and the War of 1812. The United States entered into treaties with the Indian tribes from the founding of the republic until 1871, but even after that date, official "agreements" were made which much resembled treaties in their wording and promises.

In Wisconsin, as had happened farther east and was to happen later in the West, the lands relinquished by one tribe were sometimes used and occupied for a considerable period as a regular homeland by another tribe that had been pushed on by the frontier ahead of white settlement. Thus, a large part of the land in southern Wisconsin and northern Illinois acquired by treaty from the Sauk and Fox in 1804 had to be repurchased in smaller parcels between 1816 and 1833 from the Winnebago and Potawatomi, the latter including some Ottawa and Chippewa allies. A band of Sauk under the leadership of Black Hawk, who was resentful that certain leaders had relinquished land, remained hopeful that the British would regain sovereignty over the area. In 1832 Black Hawk and his followers attempted to re-establish their old tribal settlement on the east bank of the Mississippi in northern Illinois. Although Black

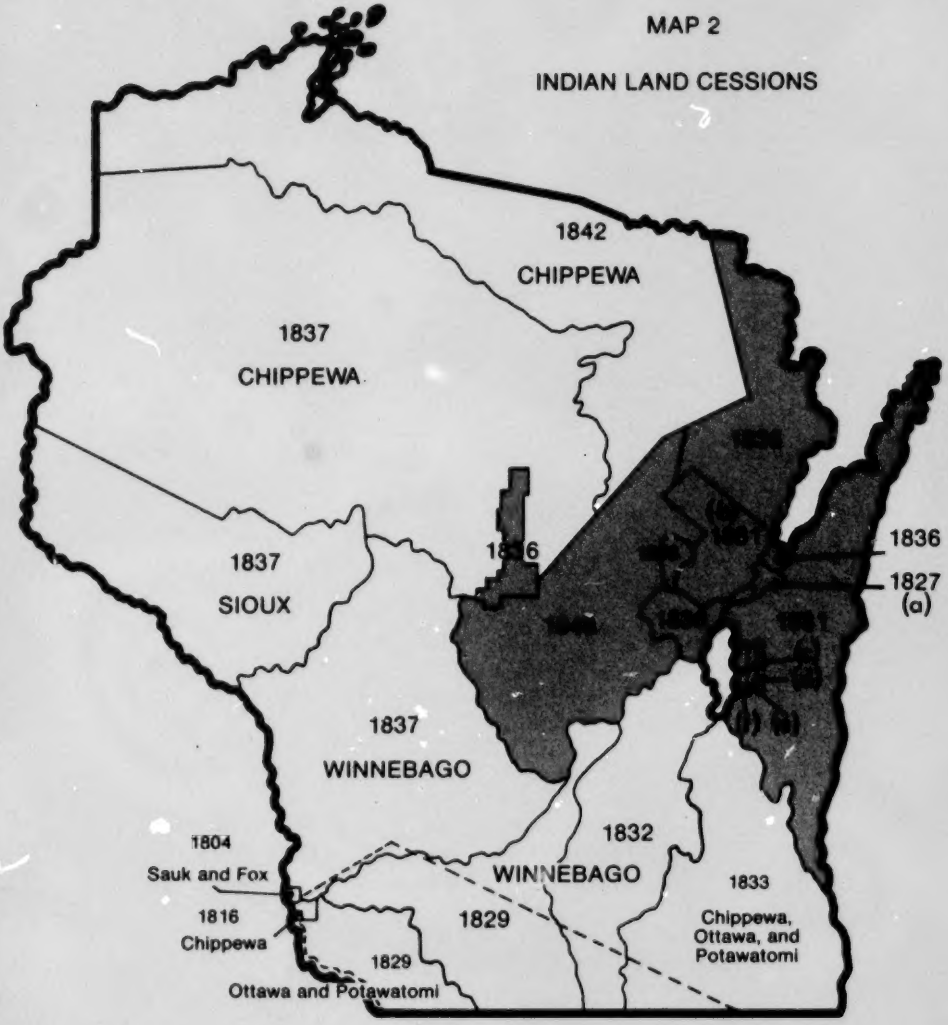
Hawk soon perceived the futility of the venture, he was unable to communicate to the pursuing troops that the band was peaceful and desired only to return to Iowa. He was forced to lead his band on a convoluted retreat through Wisconsin, where the Indians were eventually cut off and decimated in a bloody engagement at the mouth of the Bad Axe River while attempting to cross the Mississippi. Black Hawk escaped to the Winnebago, but subsequently made a formal surrender at Fort Crawford at Prairie du Chien.

It should be noted that despite Black Hawk's independent action, the Sauk, like the Fox, Winnebago, Potawatomi, and Menominee, were "tribes" in the strict ethnographic meaning of the term. They had an overall sense of unity, more or less well-developed concepts of chieftainship, and a tendency to expand into new territory or relinquish territory on the basis of tribal concerns. By contrast, the Ottawa and Chippewa were collectivities of virtually autonomous local bands. While continuing to acknowledge their common ancestry, traditions, and general identity, such bands broke off to form independent communities as population exceeded local resources. Thus, when bands of Ottawa and Chippewa wandered southward to live in close association with the Potawatomi, they were included in treaties in 1816 and 1829 which involved southwestern Wisconsin land; but their signatures had no bearing on land occupied by other Chippewa and Ottawa bands in northern Michigan and Wisconsin. A similar situation occurred near Green Bay in 1827 when some Chippewa signed a treaty along with the Menominee, the regular residents of the area. The Winnebago were also signatories to the treaty because their prior occupancy and old friendships were still honored by the Menominee in negotiations concerning the land.

The component village communities of the strongly tribal peoples felt a common concern in any treaty entered into, the villagers outside a cession sharing an interest with those living in an area to be ceded. Since it was often difficult to get consensus among the various villages in regard to land sales, the white treaty makers often settled for what seemed to them a majority of signatures of important men in the tribe—or men they took it upon themselves to designate as chiefs. Dissatisfaction with treaties, or even the particular terms of treaties, created dissident Indian factions which simply withdrew their cooperation, expecting to work with the tribe on future occasions when consensus might be reached. When the treaty-abiding faction was removed, the government often had difficulty communicating with the tribal dissidents, who were obliged to look out for themselves. Eventually, to get rid of them, the govern-

MAP 2

INDIAN LAND CESSIONS



KEY TO MAP OF INDIAN LAND CESSIONS

Menominee

------ Broken lines: Sauk and Fox (1804)

(a) Land ceded by Chippewa, Menominee, and Winnebago in 1827 for use by the New York Indians; but because of irregularities in the treaty, the Menominee who were actually resident in the area in 1827 repudiated any claim by the New York Indians. In 1831, the area marked (b) was ceded by the Menominee for use by the New York Indians. The present Oneida reservation was granted in the southeastern end of this same tract in 1838. Meanwhile, in 1831, the Stockbridge-Munsee and Brotherton were granted areas (c) and (d). In 1839 they ceded the eastern half (e) of their total holdings; in 1848 they ceded the western half (f). At that time the Brotherton opted for citizenship, but the Stockbridge-Munsee chose to remain under federal jurisdiction. Like a number of other Wisconsin tribes, they were supposed to move to a reservation in Minnesota, but this plan was not carried out, and in 1856 the Stockbridge received their present reservation. (The dates of cession are those when treaties were signed; ratification by the U.S. Senate often occurred a year or more later.)

Map by Judy Patenaude

BEST COPY AVAILABLE

ment might treat the dissidents as a separate entity. (Indeed, this was how the government had, of necessity, treated Indian peoples who were organized as loose congeries of fairly independent bands.) Consequently, the pattern of treaties gives a misleading impression that all of the tribes in a given region had the same structure.

Although the government began entering into treaties in the Wisconsin-Illinois region before the War of 1812 and immediately thereafter to win allies away from the British, it was the Treaty of 1825 at Prairie du Chien which heralded significant land loss—and which ultimately led to the present situation. The government called a great intertribal council, and asked the surrounding tribes to set forth their boundaries as understood among themselves as a preliminary to negotiations with the different tribes for their particular lands. Prior to the Treaty of Prairie du Chien, the Winnebago and Menominee had a glimpse of things to come as negotiations for land were opened with them unofficially by representatives of the New York Indians in 1822 and 1823. These intertribal arrangements were then regularized by the federal government. (See Map 2.)

Map 2 notes actual land cessions in Wisconsin and their dates, but there were also many unsuccessful negotiations. The major losses began, as already noted, with the Potawatomi and some of the Ottawa and Chippewa, and with the Winnebago and Potawatomi. By the mid-1820's, the Winnebago in southwestern Wisconsin and northwestern Illinois were being overrun by lead miners. Hostile encounters inevitably occurred. By 1827, the sorely aggravated Winnebago sought revenge. A warrior named Red Bird and two companions were designated for the task. Although apparently not eager about the assignment, they finally attacked a settler's home and killed several people. When the government threatened widescale reprisal unless the perpetrators were handed over, Red Bird and the others surrendered voluntarily and were sentenced to be hanged. A presidential pardon was sought, but the price turned out to be an agreement to cede the tribal lands encompassing the lead mines. (By the time the negotiations were completed in 1829, Red Bird had died in prison at Prairie du Chien.) The government pressured the Winnebago to sell the eastern part of their land in 1832, claiming it could not guarantee the tribe's safety in the face of pressure from white settlers. But the remaining northern and least productive area could not support the whole tribe. Villagers from the areas ceded in 1829 and 1832 had moved to an area set aside for them in Iowa as part of the price for their Wisconsin land.

The Treaty of 1837 covering the last of the Winnebagos' Wisconsin land was considered invalid by the entire tribe, since unautho-

rized Winnebago signed it, and the terms had been misrepresented to them; but the Winnebago already west of the Mississippi were resigned to the loss. They ultimately sought sanctuary among the Omaha in Nebraska, where they were granted their present reservation in 1865 after enduring a succession of treaties and four removals to different reservations in Minnesota and South Dakota between 1846 and 1862. The regular residents of the 1837 cession, joined by drop-outs from the so-called "treaty-abiding faction," simply refused to leave their old Wisconsin haunts, hiding out from soldiers or returning after being transported to wherever the rest of the tribe happened to be located. After their removal to Nebraska in 1874 proved no more successful than several previous attempts to dislodge them from Wisconsin, the government permitted the "disaffected" Winnebago to avail themselves of the Indian Homestead Act of 1875 (amended, 1881). The idea was to scatter Indians among white settlers to hasten their assimilation, but they remained under federal jurisdiction because of a few years' payments still due them on previous treaties and continued to be federally recognized Indians thereafter. In 1881 the government made a separate roll of the Wisconsin Winnebago, who then became, at least administratively, a tribe apart from the Nebraska Winnebago.

About a month before making the controversial treaty of 1837 with the Winnebago, the government negotiated successfully with the Santee Sioux to relinquish all claim to the tribe's Wisconsin land just north of the Winnebago. By then the Santee had pretty well decamped and the Winnebago and Chippewa were hunting into their area. The Chippewa also gave up a large tract in western Wisconsin in 1837.

By 1848, all Indian land in Wisconsin had been ceded by treaty except for the Oneida Reservation established ten years earlier. Taking their time about choosing new, western land, by 1854 the Chippewa bands of Lac du Flambeau, Bad River, Lac Court Oreilles, and Red Cliff, as well as the Menominee and, in 1856, the Stockbridge, were all able to make treaties assigning them their present reservations. This development reflected a change in policy due to events across the Mississippi. Although the eastern tribes were considered "pacified" in the language of the day, they were still disgruntled, and the long struggle to defeat the Plains tribes was just getting under way. Resettling all the tribes in one great western Indian Territory posed the danger that they might set aside old differences to unite against the whites. (Wisconsin tribes, among others, had been involved in such alliances under Pontiac in the early 1760's and under Tecumseh in the War of 1812. Although defeated,

these intertribal efforts were proof of the possibility of organized resistance.)

The new government policy was designed to settle tribes safely separated from one another, even in parts of their own homelands if such land was not attractive to whites. Thus Wisconsin represented a kind of watershed in the history of the Indian policy, with the Oneida and Stockbridge already moved from a more easterly location, earlier Wisconsin residents such as the Sauk, Fox, Santee Sioux, and Kickapoo and part of the Winnebago and Potawatomi moved west, and the remaining Indians allowed to stay.

There were, however, some administrative loose ends. The St. Croix Chippewa were left out of the negotiations of 1854 and, characteristically, none of the other Chippewa bands could negotiate for them. The Sakaogon or Mole Lake Chippewa were also neglected in the Treaty of 1854, but a treaty with them in 1855 promised a reservation of twelve square miles. For some reason the government never got around to setting up this reservation, so the St. Croix and Sakaogon simply remained as landless bands eking out a living as best they could in what had been their tribal homelands.

Meanwhile, "disaffected bands" of Potawatomi, dissatisfied with the Treaty of Chicago of 1833, had fled to the Wisconsin-Michigan border area by 1836. Their fugitive existence paralleled that of the Wisconsin Winnebago, but their landless state was not rectified at the time the Winnebago were allowed to take up homesteads. In 1913, discontinuous parcels of tribal trust land were purchased for them in Wisconsin by the federal government. In about 1904 a group of those Potawatomi removed to Kansas in 1836 settled in the Crandon area without benefit of federal land there.

Reservation Administration

UNTIL THE CLOSE of the nineteenth century, when reforms were instituted and the Indian Bureau was incorporated in the federal civil service, political patronage and outright corruption were part and parcel of the reservation system. Regional superintendents and local Indian agents were remote from Washington, and some were both adroit and ingenious at lining their pockets at the Indians' expense. Agency work did not pay well, but there were numerous lucrative opportunities to manipulate congressional funds allocated to the various tribes. Treaty payments were set up as annuities, to be disbursed over periods of thirty to forty years. (Although these payments have long since run out, they are apparently the source of the widespread and totally erroneous belief among many white peo-

ple that all Indians continue to receive regular, individual payments.) Treaties also provided goods and services; kickbacks to Indian Bureau administrators were often involved in the letting of contracts. When treaty payments ran out, most Indians simply could not support themselves on the reservations, and Congress therefore made annual appropriations for basic subsistence—another source of peculation at the Indians' expense. The Indian Bureau contained many dedicated people who tried to establish programs which would benefit the Indian communities in long-range terms, but they could accomplish little given the uncertainty of their tenure and a distant Congress that was indifferent to the critical social needs of people who were expected to vanish soon anyway. Rations and blankets were considered sufficient to "smooth the dying pillow."

In 1831, the unfortunate term "ward" entered the vocabulary of Indian affairs. Chief Justice John Marshall, explaining the treaty responsibility of the federal government to protect the Indians' tribally held lands from appropriation by states or individuals, drew an analogy to the responsibility of a guardian to protect the property of a ward. In another context, Marshall defined tribes as "domestic dependent nations" which had not relinquished sovereignty over their own lands when they put themselves under the protection of "a stronger nation" by treaty. In the 1860's, "ward" was dusted off and given a new meaning to indicate that Indians as individuals were the responsibility of the Department of the Interior and not fair game for indiscriminate hostilities by the War Department. As tribes were pacified on reservations, Indian Bureau superintendents and their staffs came to interpret their role—though it was never a matter of law—as literal "guardians" who could order the Indians' individual lives and make decisions for them as if they were minor children who were both recalcitrant and slow to learn. As Indian groups struggled to get on their feet and make new social and economic adaptations as on-going communities, the Bureau worked just as hard to de-Indianize, individualize, and remold them in the image of white farmers.

By 1871, the government decided not to make any more treaties with Indian tribes. Most Indian land had been acquired anyway, and most Indians were on reservations. Thereafter, the key to dealing with Indians was to be vigorous repression of things Indian, both by law and day-to-day administration of reservations, so as to undercut traditional patterns of leadership, social control, and religion. In the annual reports of the Commissioner of Indian Affairs, along with statistics on acres plowed and bushels of crops raised on

the reservations, there are entries concerning the number of Indian men and women who regularly wore "citizen's clothing," and men who had cut their long hair. Children were hauled off to distant boarding schools first established in the late 1870's, where they wore military-style uniforms and learned trades and household skills, but only the basics of reading, writing, and "ciphering." They were punished severely if caught speaking their native languages. Ironically, as tribal language barriers were broached by the English language, the students gained a sense of common Indianness and of shared problems. Some of them became the early, intellectual nucleus of pan-Indian leadership in the twentieth century. Eventually, enough boarding schools were built so that children were not sent far from home. (The one formerly at Tomah, Wisconsin, for example, served local tribes.) Religious denominations also established Indian boarding schools both on and away from reservations, and several were still in operation in Wisconsin well into the twentieth century.

Meanwhile, on the reservations, Indians chafed under the disparagement and interdiction of their customary practices and at restrictions on their efforts to adapt some aspects of the larger American socio-economic system to their community needs. Sullen apathy, drinking, and apparent irresponsibility were attributed by reformers to a denial of the Indians' initiative and freedom of enterprise as individuals. The solution to the "Indian problem" was to be the Dawes or General Indian Allotment Act of 1887, which provided for the division of reservations into 160-acre parcels for each family head, eighty acres for each single person over eighteen and for minor orphans, and forty acres for single people under eighteen. (Larger allotments were made where reservation land in western states could not support ordinary farms but was better suited to grazing.) These allotments were tax free, and could not be sold for twenty-five years, by which time the Indians were expected to have broken their tribal ties. It was soon recognized that the desired transition from tribesman to farmer might take more or less than a generation, and later legislation required that an Indian be declared "competent" before receiving a fee patent to an allotment. Individuals could choose their own acreage, but if they rejected the whole idea, a government agent made their choice for them. "Surplus land" left after all the Indians were allotted could be bought by the government and thrown open to public sale. The great Indian land grab began. Although surplus land was bought quite legally, the "competency" provision was regularly abused by land-hungry whites in connivance with unscrupulous superintendents, who declared as competent to sell their land people who were non-literate

and often were not even familiar with the English language. Between 1887 and 1934, the Indian land base was reduced from 140,000,000 to 50,000,000 acres nationwide.

In Wisconsin, about half the total reservation land base was lost in this way, in contrast to the almost three-quarters loss sustained across the country. This was primarily because there was no allotment of the Menominee reservation, the largest in the state. The sustained-yield lumbering industry the Menominee had begun was recognized by the government as best managed as a corporate holding. However, allotment nearly wiped out the Oneida and Stockbridge reservations.

Like the treaties, it was based upon the assumption that the Indian population would dwindle away, but those allottees who escaped the honor of "competency" passed their estates on to increasing numbers of descendants after the turn of the century Because people inherit land not only from parents but, in indirect fashion, from siblings, aunts, uncles, and further-removed kin, it is now not uncommon for Indians to hold numerous small parcels of land scattered all over the reservation—parcels which become increasingly fragmented with each passing generation. This growing "heirship problem" was soon handled by renting out large tracts to whites and dividing the rent money among the many owners, who hold sometimes ridiculously small shares. Thus land supposedly granted to the tribe forever slipped out of tribal control, preventing rational community development and depriving individual Indians of the ability to make effective use of the fragments of their original allotments.

In Wisconsin, the northern location of the Chippewa reservations made them poor prospects for farming from the outset. Even the treaty of 1854 recognized that commercial fishing, in which the Lake Superior groups had long engaged, was their most feasible source of support. Lumbering and, later, resort development attracted whites when Chippewa land became available through allotment. The Oneida and to some extent the Stockbridge reservations went the way of western reservations as desirable farm land. The Winnebago homesteads, which were generally forty to sixty acres each to begin with, became divided through inheritance. Many were lost through tax default and were put on county tax rolls, often without their owners' knowledge.

The Twentieth Century

WHEN the United States entered the First World War in 1917, Indians under federal jurisdiction generally were not eligible to be

drafted, but they volunteered in large numbers and compiled a remarkable record of heroism. Their deeds, and the fact of dreadful conditions on the reservations from which they came, were reported in the papers. An aroused public prompted Congress in 1924 to grant all Indians full citizenship, with particular stress on the right to vote. Some Indians were already enfranchised through allotment, some treaties, and special legislation; but for the most part they were not interested in voting. In fact, a great many "traditional" Indians were upset and angered by the so-called Indian citizenship act of 1924, which appeared to them as simply another effort to diminish their tribal status and treaty rights.

A more meaningful result of wartime publicity than the right to vote was a major investigation of Indian problems undertaken at federal expense but conducted by a private research institute. Published in 1928, the Meriam Report, as it is commonly designated, was ruthlessly thorough, and reached some surprising conclusions and recommendations for its day. (Henry Rowe Cloud, a Nebraska Winnebago, was the only Indian member of Lewis Meriam's research staff.) The report pointed out that bad as conditions were, the only reason they were not worse was that Indian peoples had somehow nurtured a semblance of community cohesion and traditional sharing which gave meaning and direction to life and enabled them to survive. The continuing loss of land as a result of allotment was singled out as a primary cause of Indian despair, demoralization, and poverty. The Menominee tribe of Wisconsin was cited as one of the very few tribes which, while far from wealthy, was a great deal better off than the vast majority of tribes. The Menominees' undivided reservation encompassed a tribally owned forest and lumber mill which provided regular employment for the people and supported community facilities and services.

Although still imbued with the idea that assimilation was both inevitable and desirable for Indian people, the Meriam Report criticized the Indian Bureau's harsh policies to stamp out everything Indian when adequate substitutes had not yet been established. Moreover, the report added the radical observation that not everything Indian was necessarily bad. The report contained a number of recommendations, but before any action was initiated the nation was overtaken by the Great Depression.

The election of Franklin D. Roosevelt saw a "New Deal" for Indians with the appointment of John Collier, Sr., as Commissioner of Indian Affairs. Guided by the findings of the Meriam Report and his own extensive familiarity with Indian problems, Collier did an unprecedented thing for a Commissioner: he went out and talked with Indians to get their opinions about future policy. The major result

was the Indian Reorganization Act (IRA) of 1934, whereby tribes could organize under their own constitutions and charters to elect their own governments, and enter into contracts with various federal agencies and the private sector to improve their social and economic conditions. Collier was criticized both for trying to turn back the clock and for trying to impose too many white bureaucratic concepts on Indian societies.

The original draft of the IRA would have granted broad authority, to those tribes that wished it, to take over from the Indian Bureau the operation of functions and services on the reservations, and giving them direct access to funds and acquisition of Bureau buildings and equipment. Congress struck this enlightened provision from the Act before it was passed, leaving only the condition that Indians would receive preference in civil service appointments to the Indian Bureau.

A critical weakness of the IRA, included by Congress over Collier's opposition, was that superintendents held final veto power over the decisions of tribal governments. Superintendents were expected to look after the best interests of Indians unaccustomed to managing for themselves, denying them the opportunity to learn by mistakes as well as successes.

Collier also had to work with an inherited bureaucracy which was committed in large part to the ancient objectives of de-Indianization and assimilation. On the other hand, Indian Bureau personnel had also begun to make sure they would not work themselves out of jobs (a strong possibility posed by the provisions stricken from the original draft of the IRA). They had to justify their existence as they always had: by busily managing reservation affairs. Collier threatened the very nature of their universe, and superintendents often came down with a heavy hand, stifling innovations and having no patience with the Indian method of reaching decisions by long discussions gradually leading to a consensus. Since tribal officers could only manipulate but not control power, Indian political life has been marred by a tendency to elect people who were recognized as talented in dealing with the white bureaucracy, but who were also mistrusted as likely to use their positions for personal gain. Indian people show an abiding distaste for leaders who see themselves in the role of bosses rather than as advocates for community consensus. Therefore, even perfectly honest officers who appear to operate on their own initiative are subject to suspicion and replacement before their plans can be realized.

Whatever the shortcomings in the implementation of the IRA, Collier's own good faith and his real understanding of Indians'

St. Louis County Historical Society, Duluth, Minnesota

Chippewa woman, from a drawing by Eastman Johnson.

Chippewa canoe-maker, Lac du Flambeau, 1927.

SHSW X3 15499

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SHSW X3 12939

Federal agents paying annuities to Indians at La Pointe, 1869.

Chippewa harvesting wild rice on the Bad River reservation, 1941.

Bureau of Indian Affairs, Dept. of the Interior

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SHSW X3 35356

Potawatomi family, Wood County, about 1920. Below: *Werner's Drug Store, Black River Falls, on annuity payment day, about 1890. The sign reads "Medicine sold here" in Winnebago, German, and Norwegian.*

Jackson County Historical Society

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SHSW W6 32942

Lac Court Oreilles reservation homestead.

Mr. and Mrs. Joe Monegar, Black River Falls, about 1900.

Jackson County Historical Society

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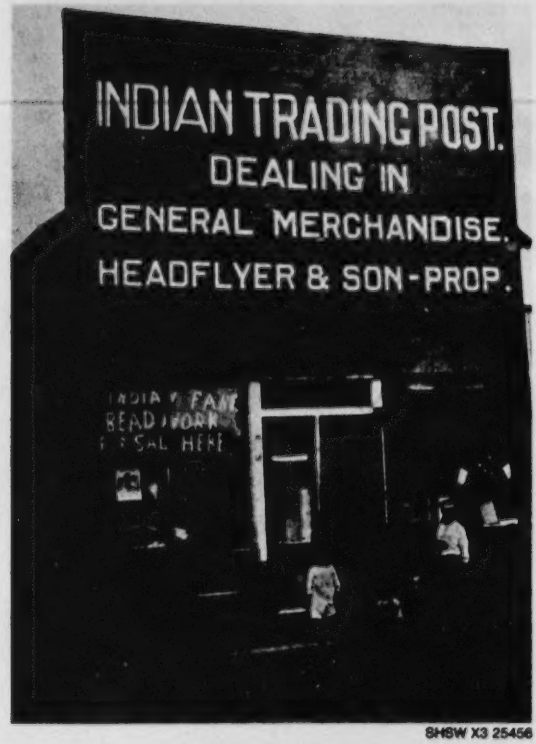

SHSW X3 25456

Trading post, Lac du Flambeau, about 1910. Below: *Indian fair on the Oneida reservation, 1899.*

SHSW X3 12052

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SHSW X3 32745

The Menominee sawmill at Neopit, 1909. **Below:** *A largely Menominee Indian logging crew of the same period.*

SHSW X3 33623

SHSW X3 33609

Indian veterans of the Civil War at a Grand Army of the Republic gathering. Below: *United States Indian School baseball team, Lac du Flambeau, about 1925.*

SHSW X3 25448

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Wisconsin Conservation Dept.

Virgin timber on the Menominee reservation. Below: *Potawatomi basket sellers, Antigo, 1909.*

SHSW X3 35354

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SHSW X3 35359

Jo, Wisconsin, a Forest County Potawatomi, about 1920.
Below: Chippewa schoolchildren, Lac du Flambeau, about 1900.

SHSW X3 25451

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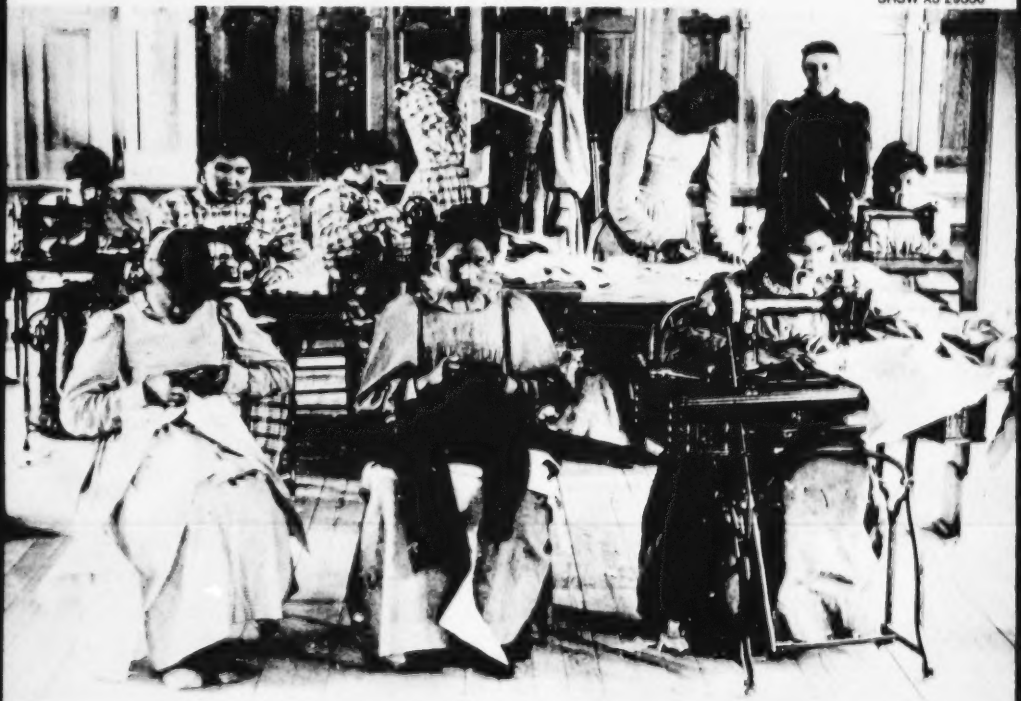
SHSW X3 23295

Indian school, Sawyer County, about 1885. Below: *Sewing class at the federal school for Indians at Lac du Flambeau, about 1895.*

SHSW X3 29356



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Madison Capital Times

July 31, 1959: Governor Gaylord Nelson signs into law the bill creating Menominee County out of what had been the Menominee Indian reservation. Standing, left to right: Gordon Dickie, Bernard Grignon, Hilary Waukau, Attorney General John W. Reynolds, James Frechette, Al Dodge.

Protest led by James White, president of DRUMS, staged at First Wisconsin National Bank, Milwaukee, April, 1971.

Milwaukee Journal Photo by Ernest W. Anheuser

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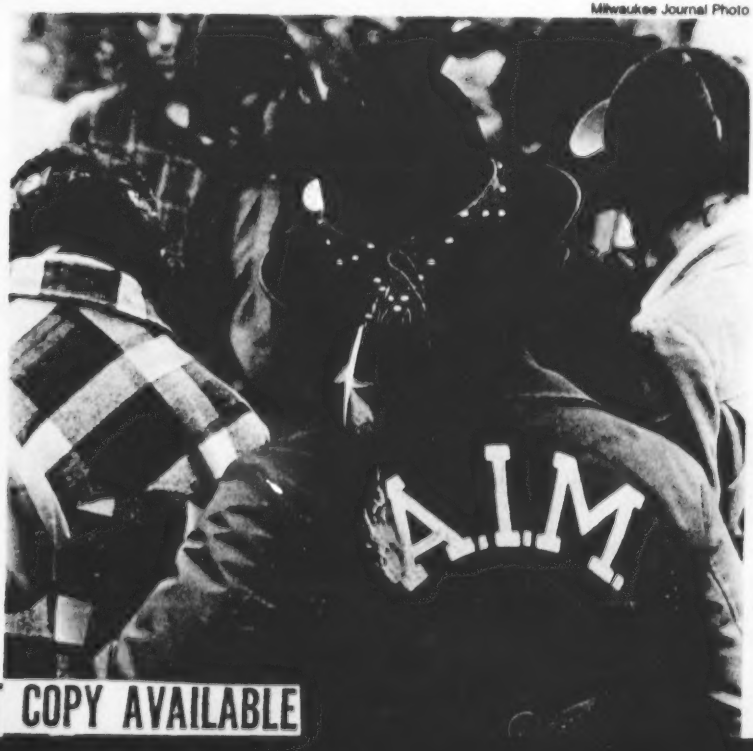
Milwaukee Journal Photo

Lac Court Oreilles Chippewa and supporters demonstrating against the building of a dam on the Chippewa Flowage near Winter, Sawyer County, August, 1971.

Milwaukee Journal Photo



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Milwaukee Journal Photo by Richard Greenawalt

Menominee Indians and other protesters at a National Guard roadblock near the Alexian Brothers novitiate at Gresham, Shawano County, January, 1975. Below:
Armed National Guardsmen on the novitiate grounds.

Wisconsin National Guard

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Milwaukee Journal Photo by Robert Nandell

Class in the Milwaukee Indian Community School, taught by an Oneida parent-volunteer, January, 1971.

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grievances were clear to Indian people in his halting of the loss of Indian land and his efforts to restore tribal land. Although land acquisition was hampered by inadequate federal funding, Wisconsin tribes were among beneficiaries of the program. The Mole Lake Chippewa finally received a reservation of 1,750 acres, far short of the twelve square miles (7,680 acres) promised in 1855 but the first attempt to honor their treaty after nearly a century. The so-called Lost Band of St. Croix Chippewa also received a reservation of about the same size, but in scattered parcels of land available around their settlements. The Oneida and Stockbridge also gained land. Transfer of title to some 1,200 acres of Department of Agriculture land to the Stockbridge was delayed until 1972, when it was finally conveyed, minus mineral rights, to tribal trust status. There was some opposition from sportsmen's groups, but the land acquisition was an earnest of new developments on the Indian scene in general.

All the Wisconsin tribes except the Menominee and the Winnebago opted for tribal constitutions under the IRA during the 1930's. Like a few other tribes such as the Navajo, who also rejected the IRA, the Menominee already had elected officers because their lumbering enterprise required a mechanism for tribal approval of contracts. The Winnebago had no reservation to begin with and had few of the complaints of reservation Indians about Indian Bureau meddling. Apart from some housing built by the WPA on federal but not tribal trust land during the 1930's, they were generally neglected by the government and supported themselves by itinerant crop harvesting, other seasonal wage work, trapping, basketry, and some gardening. Despite the fact that the Winnebago lived in widely separated communities and scattered households on federal, mission, and old homestead land, their ties of kinship, language, and traditional practices gave them a sense of tribal integrity and independence. They investigated the IRA but did not vote for or against it. Basically, they feared any plan which might be charged against them in the future and prevent their ever collecting money which they believed was owed them because of old land negotiations. (In the 1920's they had tried without success to get a settlement through the U.S. Court of Claims in regard to land reserved to them in Minnesota by treaty and then taken away by Executive Order.)

Their grievance was not unique. The Meriam Report had noted in 1928 that there were many unsettled Indian claims and recommended that these be handled by some more expeditious means than the cumbersome, costly, and usually disappointing process

which required a jurisdictional act from Congress for each tribe to bring suit in the U.S. Court of Claims. In 1946 the Indian Claims Commission (ICC) was finally established. Tribes had until 1951 to file claims, which the Commission was expected to hear and settle by 1957. The volume of claims (over 600 dockets, many involving several complaints) and the time-consuming procedures the Commission adopted necessitated several extensions of the Commission's tenure. The Commission was terminated in September of 1978 and the few remaining cases were transferred to the U.S. Court of Claims for completion.

Although the Indian Claims Commission Act of 1946 contains the broadest grounds for suit of any legislation in our history, the Commissioners construed them narrowly and disallowed such grievances as the effects of the allotment policy, which reduced and fractionated the Indians' lands. Except for dismissals, most cases have taken anywhere from ten to twenty years to be settled. All of the Wisconsin tribes except the Menominee* brought suits before the ICC, and, while judgments have been awarded, the payments have been delayed because tribes must come up with plans acceptable to Congress for the disposition of their money. Most tribes, including those in Wisconsin, want all or most of their money in straight per capita payments. Indian people understand the long-range advantages of investment insofar as their awards gather interest until their plans are approved, but, after long and bitter experience, they remain suspicious about other people handling their assets and leaving them no better off—and sometimes poorer.

In some ways the Indian Claims Commission reflected the last sentiments of the Collier era in the sensitive wording of the Act of 1946, while the implementation and interpretation of the Act by the

*It is curious that the Menominee, unlike all the other Wisconsin tribes, did not register a claim before the U. S. Indian Claims Commission. They went to the U. S. Court of Claims in 1934 concerning federal mismanagement of their lumbering enterprise. This suit dragged on until 1951 when the tribe won a net award of about $7,600,000. Whether or not the often-heard allegation is true that the tribe was pressured not to go before the Commission on the promise of finally getting their long-pending court claim settled, the timing is interesting. They got their court decision in the deadline year for filing before the Commission. As Map 1 indicates, the Menominee ceded parcels of land comparable to those ceded by tribes immediately adjacent to them. The terms of the Menominee treaties were no more generous than those of other tribes, and the land was clearly comparable to that of other tribes. The successful court suit concerned quite different issues than those which could have been brought before the Commission. Granted that the awards from the Commission are small, the Menominee should have been as eligible as other tribes to register a claim.

early 1950's, and continuing into the 1960's, reflected the government's repudiation of Collier's philosophy. The claims awards are of negligible monetary importance—a thousand dollars or so per capita—but the existence of the Commission per se has had indirect consequences of real significance. Prior to 1946, very few attorneys knew much about the law in relation to Indians, and few tribes understood the nature and potential of the courts to seek redress of grievances. With so many tribes and attorneys involved in the Commission cases, this situation changed markedly. Because of the old issues considered, a wealth of historical and anthropological documentation in the National Archives and other depositories was systematically assembled to be offered in evidence. Now Indian people can draw upon this source material, as well as upon a knowledgeable cadre of lawyers and scholars, including Indian people, to pursue issues not dealt with by the Commission.

Anthropology has attracted a surprising number of Indian people to its professional ranks since the nineteenth century, and continues to do so; but in recent years the legal profession has held a special appeal for Indian students. During the 1970's two national organizations were founded and are largely staffed by Indian people to do legal work in behalf of tribes: the Native American Rights Fund and the Institute for the Development of Indian Law. Growing concern with the law has related not only to settling old grievances but to warding off new threats to Indian rights which began about 1948.

The Indian "New Deal" only lasted some seven years, from 1934 until the United States entered the Second World War in 1941. Funding for many federal agencies was cut back to direct a larger portion of the national budget to military purposes, but more was involved in Indian Bureau cutbacks than simply wartime economies. Congress turned an increasingly deaf ear to John Collier's pleas in the 1940's to keep new Indian programs alive and prepare for the problems Indians would face in peacetime. With so many Indian people employed in the armed services and defense industries and sending money home to those still on the reservations, Indian poverty was temporarily alleviated. Indeed, Congress considered the problem permanently solved. But Collier foresaw that when the war ended the Indian people would come back home to economically distressed reservations. Since the Indian population also shared in the national postwar baby boom, the already limited and undeveloped reservation resources were even less adequate to support decent community life. The war, however, had been a mass educational experience. Indian people returned with new knowledge and experience they wanted to adapt to reservation de-

velopment through more informed use of their new tribal organizations.

Realizing that Indians were worse off than ever, and that a large amount of money would be needed to get communities on their feet and regain ground lost during the war, Congress conveniently blamed Collier for the crisis he had merely predicted. Postwar problems were attributed to Collier's departure from the time-honored assimilationist approach to Indian affairs. The cry grew to "desegregate" Indians, "free" them, make them "first-class citizens."

Ironically, such words of hope for black people in the 1950's conveyed a different meaning and a chilling threat to Indian people, who recognized the slogan that really applied to them: "Get the government out of the Indian business." The reservations were not urban ghettos which had been allowed to deteriorate by indifferent slumlords; the reservations were Indian property. On most reservations, allotment had resulted in a checkered pattern of Indian and white holdings—hardly a picture of segregation. No one tried to deny Indians the vote. Quite the contrary! The Indian who chose to opt for white identity could, with few exceptions, become as thoroughly "Americanized" as the European immigrant. Politicians and other public figures capitalized on their Indian ancestry. Indians had always been encouraged to take their names off tribal rolls and disavow their cultural ties.

Collier had recognized (his detractors said he romanticized) the durability of Indian values and the persistence and increase in size of Indian communities despite the ongoing spin-off of individual Indians into the dominant society. He aspired to improve the Indians' collective lot by education and properly funded opportunities, including revolving loan funds rather than mere subventions, to experiment with community self-determination. Even those who might choose to leave would be better prepared to enter the white world at a decent socio-economic level. But it would take time and money to enable Indians, the poorest and most deprived of all Americans, to begin solving their own problems. Congress wanted a cheap, instant solution. Unable to carry out his policy, Collier resigned in 1945. A series of short-term successors sometimes tried to moderate between Congress and the Indian interests as Collier saw it, but with Dwight D. Eisenhower's appointment of Glen Emmons as Commissioner in 1953 there came a complete take-over by the forces Collier had opposed during his last five years in office.

A two-pronged attack was mounted to eliminate the "Indian problem," meaning, in effect, the Indians themselves, as a people.

One prong was *termination,* as enunciated in House Concurrent Resolution 108 of 1953, to put an end to reservations and federal pledges to protect Indian property and related rights; the other prong was *relocation,* to disperse the Indian population from rural to urban areas. Legislation relating to the goals of termination and relocation included Public Law 280 to make law enforcement regarding reservation Indians a state rather than a federal responsibility. Due to Indian opposition, Public Law 280 finally affected only a few states, Wisconsin among them. The old Indian liquor law was repealed, but even this gesture to remove a racially discriminatory law was met by some appalled tribal councils with local option legislation to keep at least some western reservations dry. A further attempt to deny Indian distinctiveness was the transfer of Indian Bureau health services to the general Public Health Service, which then found it necessary to set up a separate Indian division to deal with the exceptionally severe Indian health problems as a special concern.

In the 1950's, Wisconsin, as usual, became a primary laboratory in which to tinker with new experiments in Indian policy. Arthur V. Watkins, a Republican senator from Utah and the moving force behind termination, decided to begin implementing the policy with tribes offering the best prospects for success. He hoped thereby to allay the anxieties and opposition of tribes across the country which he expected would then follow the initial lead. The Menominee, who had been singled out as economically secure in the Meriam Report of 1928, became Watkins' first target.* The tribe appeared exceptionally solvent, because in 1951 they had won a judgment in the U.S. Court of Claims which, with interest-bearing funds from the profits of their mill and forests, gave them about $10,000,000 in cash assets. The Menominee had voted to use most of their award money in per capita payments, because that represented the income individuals had been deprived of during the years their enterprise was shown to have been mismanaged. The government hedged and delayed in releasing the per capita payments, but did approve a major expenditure from the remainder of the judgment to upgrade the Menominee hospital, which, with other community facilties and services, was supported by their working capital.

The Menominee tribal officers were only advisory to the Indian Bureau, and the Bureau made practically no effort to train Me-

*For an extensive examination of Senator Watkins' role and the entire question of the termination of the Menominee, see Stephen J. Herzberg, "The Menominee Indians: From Treaty to Termination," in the *Wisconsin Magazine of History,* 60: 267-329 (Summer, 1977).

nominee for management work to phase the tribe into direct control over its corporate affairs. By 1951, population increase was already beginning to strain the capacity of the mill and forests. Tribal members recognized the need to expand and diversify their economic programs, but the Bureau was reluctant to become involved in operational changes, knowing the tribe's reservation was scheduled for termination.

In fact, the Menominee were prosperous only in comparison to other tribes. Their situation was substandard, even precarious, compared to the nation as a whole. Senator Watkins disregarded these realities and pressured the Menominee with the threat that if they did not agree to termination voluntarily, Congress would terminate them anyway. Watkins visited the reservation, and at his insistence a highly irregular vote was taken with a single "yes" or "no" covering both the release of their per capita payments and the principle of termination. Only five "no" votes were cast of a bare quorum of 174 people. Two weeks later, when the conditions were further discussed and more clearly understood by the Menominee, another tribal council was convened and the nearly 200 people present voted "no" unanimously to termination even if it meant losing their per capitas. But Congress chose to ignore this forceful statement of community sentiment, as well as many subsequent petitions with even more signatures expressing opposition to termination. In 1954, Public Law 399 was passed to terminate federal protection of the Menominee Reservation and shove the Menominee into the cold world of private enterprise.

The Menominee played for time, delaying the date for termination to take effect from 1958 to 1961. Meanwhile, as the Bureau let the already obsolete mill deteriorate further and did little to prepare the Menominee to take over its operation, the cost of developing a "termination plan" ate up most of the tribe's working capital. The Menominee voted to form a separate county; their only alternative was dismemberment of the land among neighboring counties. The new county had to contract with Shawano County for law enforcement and educational services. The termination plan also created a new corporation, Menominee Enterprises, Inc. (MEI), which held all the former reservation land and the tribal assets and facilities. Thus, the supposedly "freed" Menominee people ended up with less control over their affairs than had been the case before termination. The state of Wisconsin and white business interests simply took over management from the Indian Bureau. The board of directors of Menominee Enterprises, comprised of both white and Menominee members, was well-intentioned, but it faced an im-

possible situation: a worn-out mill, a practically empty treasury, and a staggering tax burden. The mill had been operated primarily to provide employment, but efficiency now demanded cutting the large labor force. Each Menominee enrolled up to 1961 had received a $3,000 bond to mature in the year 2000 and 100 shares of stock paying 4 per cent interest. Menominee Enterprises encouraged people to apply their bonds to purchase the parcels of land they had always lived on to help defray the county tax bill. Soon many unemployed Menominee faced losing their land because they had defaulted on their taxes. As the grim facts of the Menominee case became known, they served to slow and finally to halt the congressional termination policy, so that only a handful of other tribes was terminated.

In the early 1950's, however, while Congress pushed termination, the Indian Bureau instituted the Voluntary Relocation Program, providing travel money to cities as far removed as possible from the Indians' reservations. Helped to find their first housing and jobs, or job training, the relocatees were expected to "go it alone" from that point. Poorly screened in regard to marketable skills, command of English, and knowledge of city life, many Indian families were left destitute by the slight recession of the mid-1950's. They were unable to get back home and were shy about seeking public assistance; indeed, many did not even qualify for welfare because they did not meet residency requirements. Some turned to intertribal social organizations established by Indian people who had earlier taken up city residence within easy commuting and visiting distance from their reservations. New Indian centers also developed to meet the crisis, supported by churches and other private sources of funding.

By the time of the presidential campaign of 1960, both major parties recognized that Indian affairs were in a terrible mess. Indian people were eager to make their needs and wishes known and responded enthusiastically to the offer made in cooperation between the National Congress of America Indians (NCAI) and Sol Tax, an anthropology professor at the University of Chicago. NCAI had been founded by Indians during the Collier era to assist federally recognized tribes in using the IRA, but by 1960 had become involved mainly in lobbying against the policy of the 1950's. Tax offered to raise the money, cordinate paperwork, and arrange for facilities if Indian people wanted to get together to see if they could agree among themselves in their own way on basic policy recommendations. In June, 1961, the largest and most representative gathering of Indian people to that date met on the campus of the University of Chicago. The American Indian Chicago Conference

(AICC) had been preceded by tribal and regional gatherings since the previous January during which time consensus had gradually evolved, culminating in the document completed at Chicago: *The Declaration of Indian Purpose.* It was subsequently presented by an Indian delegation to President John F. Kennedy at the White House.

The document was emphatic in opposing the policy of the 1950's, but it reflected the moderate outlook that Indians should work within the existing system of federal administration. A small group, but with representation from many parts of the country, argued for total independence of reservations as treaty nations in relationship to the United States and Canada. To the moderates, this position seemed to invite termination and loss of federal protection of Indian land. The "radicals" also supported the idea of picketing and other public demonstrations which the majority of the Indians at Chicago frowned on as "not the Indian way" and likely to further confuse black and Indian issues in the public mind. When their views were rejected, the militant minority withdrew from the Conference, but they had gained a wider hearing and more impact than was initially suspected.

In 1961, President Kennedy appointed a task force to meet with Indian people around the country and prepare a report as a guide to future policy. The report paralleled the essential points of the Chicago *Declaration:* insistence on the right to be Indian; protection of the Indian land base; education to advance tribal as well as individual goals; and community development programs which would also be congruent with Indian values and cultural preferences. Philleo Nash, an anthropologist and former lieutenant-governor of Wisconsin, headed the task force. He was subsequently appointed Commissioner of Indian Affairs in 1962. Moving cautiously at first in the face of continuing assimilationist sentiment in Congress, Nash nevertheless inspired hope as "a new Collier." He stressed community development and humanized the relocation program to make it truly voluntary. Nash understood that while Indian people were interested in economic improvement, they needed to explore and weigh alternatives and gain confidence and experience. He was deemed too slow by his superiors in the Interior Department and by other interests who saw reservation development in terms of cheap labor pools for white capital. Nash's tenure lasted just half as long as Collier's.*

*Nash was succeeded by Robert Bennett, a Wisconsin Oneida. When Nixon became president, it was politically expedient that an Indian be appointed and Louis

Both Nash's brief term of office and the American Indian Chicago Conference had profound effects. Many Wisconsin Indians had participated in the conference. At the pre-conference regional meeting for the Midwest, a Wisconsin Winnebago woman, Helen Miner Miller, was nominated to the general steering committee of AICC. Inspired by this experience, Miller—then a high school teacher—together with other concerned Winnebago and a leadership nucleus which had been elected to expedite filing of the tribal claim in 1949, formed the Wisconsin Winnebago Acting Business Committee. As far as can be determined, this was the first Indian group in the country to obtain a research grant entirely on its own initiative and without reference to the Indian Bureau. (The Social Security Administration had funded an all-Winnebago research team to conduct a household survey as a basis for future socio-economic planning.)

Seeing the benefits of formal organization, the Acting Business Committee, with general tribal approval, applied for organization under the IRA—the first tribe to do so since the 1940's. At first their efforts were blocked by the legal technicality that they had no reservation, but they finally qualified when they discovered that an old Indian homestead had automatically reverted to tribal trust status when the owner died without known heirs. This forty-acre "reservation" prompted the now officially elected Business Committee to

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Bruce, of Sioux and Iroquois descent and a successful New York businessman, was chosen over other candidates recommended by various Indian organizations. Bruce proved something of a surprise in departing from the conservative views held by those who promoted his appointment to begin embracing the views of those who had opposed him. Unfortunately, he held office in what proved to be tumultuous times. When the "Caravan of Broken Treaties" descended on Washington, D. C., in 1972, the leaders had given ample notice of the number of Indians to expect. The Bureau staff considered the estimate inflated and did not take the Caravan seriously. Last-minute efforts to provide shelter or allow the Indians to set up camp were totally inadequate. By the time discussions began, Indian feelings were running high, and the Indians took over the BIA building. The government's conciliatory approach and extreme restraint in containing the situation have been attributed to the Caravan timing its appearance for the eve of an election and the Nixon administration seeking to avoid bloodshed at all cost.

Bruce was quickly pushed out of office and his duties were assumed by Marvin Franklin, a Special Assistant to the Secretary of the Interior, until 1973 when an Alaskan Indian, Morris Thompson, was appointed Commissioner. Thompson held office until 1976. Then Ben Reifel, a Sioux who had served in Congress from South Dakota, held the office a little over a month; a non-enrolled Indian, Ray Butler served two stints as Acting Commissioner; and Forrest Girard, also Indian, headed the Bureau under the title of Assistant Secretary for Indian Affairs.

acquire more land where Winnebago people were concentrated in order to obtain housing—a high-priority item in their survey—under a program then being undertaken by the Bureau of Indian Affairs and the Public Housing Authority. Their efforts included petitioning for tribal trust title to some federal land, to privately held land donated to them, and to land they raised money to buy. Thus, in 1962, a year after termination became final for the Menominee, the Wisconsin Winnebago launched a project that is continuing to enlarge the acreage under tribal trust title. Other tribes have benefited from the Winnebago example. The Oneida, for example, have had about thirty acres of an old allotment on the outskirts of Green Bay declared tribal trust land which they hope to develop as an industrial park, and, as noted, the Stockbridge gained tribal title to land held by the Department of Agriculture.

Organizations such as the NCAI and the dramatic model for intertribal cooperation afforded by the AICC influenced tribes around the country to form regional groupings for mutual help and political strength. In Wisconsin, the Great Lakes Intertribal Council (GLITC) was created in 1961 by the tribal governing bodies in the state. While still in its formative stage, GLITC responded to the request of the recently established Office of Economic Opportunity (OEO) to act as the central agency for work among Wisconsin Indians. While OEO, as part of President Lyndon Johnson's war on poverty, was committed to grass-roots development, old bureaucratic tendencies were hard to overcome even in a new and innovative agency. At the outset OEO tended to disregard what Indian people were doing in their own way and tried to push its own preconceived formulas for "self help." The Wisconsin Winnebago were particularly distressed, and they were actually set back for a time in the real grass-roots progress they had made by their own efforts. In general, however, OEO gave GLITC and its member tribes necessary if sometimes painful experience in dealing with the federal bureaucracy and learning to tap nongovernmental sources of funding. Wisconsin's Indians as individuals and tribes have also benefited from another governmental agency, Wisconsin Judicare, which was set up to assist indigent people in the state's northern counties, which also happened to contain virtually all of Wisconsin's tribal communities.

As the threat of termination faded by the mid-1960's, the relocation policy of the 1950's continued to have far-reaching consequences. In much the same way that boarding schools had inadvertently stimulated early pan-Indian sentiments and activities, relocation stimulated cooperation in the cities among people from

many tribes and promoted a broad sense of concern for any Indians wherever they might live. The urban experience tended to reinforce Indian identity and values rather than dissipating them, as was intended by proponents of relocation. Young Indians born and reared in the cities were often imbued with their parents' heightened sense of Indianness, as expressed in participation in Indian Center activities and urban pow-wows, but they were also embittered by having been denied the opportunity to learn much about the life, traditions, and languages of their own tribes. Living for the most part in poor to actual slum neighborhoods, they added a street-wise assertiveness to their Indian grievances. They did not share the older generation's fear of demonstrations, for they recognized that confrontations capture public attention.

Although the first, well-publicized demonstrations concerned Indian treaty rights along the Northwest Coast in regard to fishing, it was the occupation of Alcatraz Island early in 1970 by San Francisco area relocatees and other Indians that served dramatic and widely reported notice that "city Indians" could not be written off as lost in the urban crowd, and that for Indian people the basic issues were still territory and treaties. The occupiers, calling themselves Indians of All Tribes, claimed Alcatraz on the basis of a Sioux treaty stating that abandoned federal property would revert to the Indians. The claim had no substance in California, but the Indians capitalized on its symbolic meaning, planning to establish an intertribal community and cultural center in the former federal prison facility. They were finally forced to leave under a court order, but the Alcatraz occupation had a tremendous inspirational impact on Indian people generally.

Meanwhile, in the Twin Cities, the American Indian Movement (AIM) was formed to deal with problems Indians were having there with law enforcement agencies. AIM chapters soon sprang up elsewhere, and AIM members could be counted upon to converge from all over for demonstrations in support of local urban and reservation concerns. Although demonstrations were intended as a first step to evoke public interest in Indian problems, for many participants the demonstrations were therapeutic in themselves. Sometimes the follow-up was left to the dedicated handful who could not always maintain lasting benefits.

The Menominee Struggle

WISCONSIN typified what was happening across the nation, but it scored somewhat better than most states in achieving real objec-

tives, beginning with the Menominee effort to resist and reverse termination.

Complaints about the new management of Menominee affairs were dampened by the reminder that Menominee County was operating on a ten-year-trial basis and that dissension about Menominee Enterprises, Inc., could result in a state decision by 1971 to dismember the new county among its neighbors and destroy any hope of maintaining the tribal estate. Diffuse expressions of discontent finally became organized protest when MEI itself entered into a contract with a land developer to create artificial lakes and sell vacation home sites to non-Menominee—a desperate attempt to lighten the county tax load borne by the corporation. Determination of Rights and Unity for Menominee Shareholders (DRUMS) was founded in Milwaukee and Chicago in 1970. Knowledgeable, urban-based Menominee such as the eloquent James White of Chicago rallied intimidated reservation people in a concerted effort to get termination repealed. Even the Menominee within MEI generally agreed that termination had been a mistake, but they considered its repeal an unrealistic dream and feared that agitation would destroy both the financially troubled corporation and the county.

DRUMS, on the other hand, felt that the corporation and county were doomed anyway, and if they could not repeal termination they would at least go down fighting. They prepared informational handouts and held well-organized demonstrations at restaurants where promotional dinners were provided for prospective land buyers. They picketed the Milwaukee office of the First Wisconsin Trust Company, which controlled MEI elections by bloc voting the shares of all Menominee minors and incompetents, having been given this authority under the termination plan. They demonstrated at the land sales office at Keshena and along the main roads through the county, bringing about the arrest of two DRUMS officers, Laurel Otradovic and the late Lloyd Powless, who accepted their stint in the Shawano County jail as prisoners of conscience. They demonstrated at the land development company's headquarters in Reedsburg. (The last event occurred in the course of an impressive and successful march from Keshena to Madison by several hundred Menominee and other Indian and non-Indian sympathizers to seek Governor Patrick Lucey's support of repeal of termination.)

With legal counsel from Wisconsin Judicare, DRUMS harried MEI with litigation on various matters, and it mounted a proxy fight. Failing to garner the vote to reorganize MEI in 1971 (an option built into the termination plan) because they could not control the minors' shares, DRUMS did manage to put its candidates in

control of MEI. DRUMS' next steps were to begin phasing out the land sales contract and to undertake intensive and systematic lobbying for repeal of termination, under the direction of Ada Deer, in Washington, D.C. Although by this time Congress had abandoned the termination policy, almost no one except the people associated with DRUMS believed Congress would ever change a decision on a tribe it had already terminated. Yet, by the end of 1973, after a second introducton, the Menominee Restoration Bill was passed and signed into law by President Richard M. Nixon. It provided for the election of a Restoration Committee to undertake the complicated task of closing out contracts and obligations encumbering the tribal assets since termination, reorganizing the corporation, opening and updating the tribal roll, and creating a constitution for tribal government. The Menominee had won their long, arduous struggle for a return to tribal status.

Legal assistance from Judicare was augmented by the Native American Rights Fund in the final stages of the fight for repeal of termination and in conveying the reservation back to federal jurisdiction. The Menominee objective of "federal protection without federal domination" was not easy to achieve. The Restoration Committee, headed by Ada Deer, found itself with one hand trying to hold off the Indian Bureau, which saw its protective role regarding land as the right to manage tribal affairs in general; and with the other hand trying to hold off disgruntled Menominee who saw legislative provisions to safeguard the tribal land as federal domination. A decade of termination had left a complicated legacy of financial problems, social distress, and personal frustration. Such problems could not be solved simply by the fact of restoration. All-out effort had broken the barrier to Menominee goals but, once termination had been repealed, reaching those goals would require time and specialized skills. Even in the last stages of the struggle for repeal of termination, the action had shifted from Wisconsin to Washington, and involved the active participation of only a few people. To many Menominee who missed the camaraderie, excitement, and personal sense of worth in doing something vital in the tribal interest, the Restoration Committee appeared to be operating too much on its own initiative—much like the old MEI administration.

On New Year's Eve, 1974, a group called the Menominee Warrior Society forcibly occupied a vacant facility of the Catholic order of Alexian Brothers located just outside the reservation near the town of Gresham in Shawano County. The Indians claimed the property for the Menominee tribe to use as a hospital. The Warriors seemed to draw inspiration from the dramatic take-over of the Indian Bu-

reau in Washington and the Wounded Knee confrontations in South Dakota rather than from the more localized, sustained, and diversified actions undertaken by DRUMS. Their perception appears to have been that direct action alone had toppled the old MEI, and that it could topple the new tribal "establishment" to bring immediate benefits to the tribe. The Warriors attracted an interesting mixture of supporters, including disaffected DRUMS people, old guard MEI officers, some AIM observers, and liberal-to-radical whites, many of whom had not been involved with DRUMS but had become aware of the Menominee because of publicity DRUMS had gained for the tribe.

Initially, the governor's representatives virtually ignored the Restoration Committee, the tribe's only elected officers, in trying to resolve the problem in negotiations between the Warriors and the Alexian Brothers. The Restoration Committee promptly repudiated the Warriors' action as illegal, involving non-Menominee property, and laying claim to a white elephant which the Restoration Committee, as a provisional government, could not accept even if it were offered to the tribe by the Alexians. The Restoration Committee was dead right, but it came across as high-handed, giving its detractors fuel for their accusations that its members were insensitive to the grass-roots people. The Wisconsin National Guard was called in and the Warriors finally withdrew, leaving the novitiate in something of a shambles. Negotiations for its future use make no reference to the Menominee.

Although the reservation has since been further shaken by internal disturbances, including several violent deaths, the Menominee are gradually rebuilding their community. After much discussion the tribe has finally voted approval of a constitution, but was unable to elect a regular governing body until 1978 despite several tries because the necessary majority of votes to elect anyone to office was dispersed among a large number of candidates nominated by various interest groups in the tribe. Meanwhile, the Restoration Committee obtained substantial federal grants and other funding to build a new health facility, got the mill into increasingly productive operation, and developed various social and economic programs to increase employment and improve reservation conditions in general. A revival of traditional religious practices—which began as DRUMS—inspired new hope and has been gaining strength, and some of the Warriors are becoming active participants.

The Ojibwa

WHILE the Menominee were still demonstrating for the repeal of termination, the Lac Court Oreilles Chippewa decided to take di-

rect action on a matter concerning their reservation. On the night of July 31, 1971, a group of about a hundred Court Oreilles and some twenty-five AIM supporters occupied the dam site of the Northern States Power Company near the town of Winter in Sawyer County to protest the renewal of the company's fifty-year lease to maintain the dam. The company had not fulfilled the original terms to move Indian graves and homes when the dam was built in 1921, and by 1924 had flooded 14,500 acres of federal land comprising the Chippewa Flowage, including 6,000 acres of the Court Oreilles Reservation. The water level in the Flowage fluctuated as much as twenty-two feet under the company's control of the dam, destroying three wild rice beds which had supplied the Indians with both food and significant amounts of income until 1920. Panfish and waterfowl the Indians depended on gave way to the deep-water game fish prized largely by white sportsmen.

The tribal government supported the occupation to draw attention to the problem, "in the spirit of Alcatraz," as reported in the newspapers, and the Great Lakes Intertribal Council also lent its support. Basically, the Indians wanted the federal government to "recapture" the area, restore the non-Indian land to a wilderness state, and return the 500 acres of tribal trust land to the tribe and the remaining land to the heirs of the original allottees. The Chippewa, who had scrupulously avoided doing any damage or giving any cause for physical violence, withdrew after three days in response to a plea from Governor Lucey, who pledged his support of the recapture and promised to consider a state Indian office. Vernon Bellecourt, a Minnesota Chippewa and in 1971 an AIM director in the Denver area, had participated in the occupation. He said of the withdrawal: "I'm pessimistic. . . . I hope I'm wrong. I hope Lucey will live up to his word and that we will be given what we've been told we'll get. But too often—no, always—it happens that we meet the white man's terms and then the white man turns his back on us."

Almost ten years of study, hearings, and negotiations have passed. The power company's contract has been renewed annually, and the matter is still unresolved. The administrative judge ruled against the Indians in 1977 and recommended a new thirty-year lease for the power company although the governor, the State Department of Natural Resources, the Indian Bureau, the State Department of Agriculture, environmentalists, and anthropologists all supported the Chippewa position. (Sawyer County and sportsmen generally supported the power company.) The Federal Energy Regulatory Commission is currently reviewing the evidence, and a final disposition will have to be made by Congress whether or not to re-

capture the area, since a formal request for recapture has been made by a federal agency, the Department of Agriculture. The Native American Rights Fund has supplied legal assistance for the Lac Court Oreilles tribe throughout this protracted struggle, and continues to represent them.

The Milwaukee Scene

JUST TWO WEEKS after the Winter Dam occupation in 1971, the Milwaukee chapter of AIM occupied a vacant Coast Guard station on Milwaukee's lake front, using the same treaty rationale put forward at Alcatraz. AIM's intention was to set up a multi-service center for Indians, and in fact an alcohol rehabilitation program did briefly operate on the property. What has actually kept the Coast Guard station in Indian hands is the fact that two years prior to the occupation, several Indian mothers had begun a tutorial program in one of their homes for children who were truant or had dropped out of school. As more Indian parents wanted to enroll their children in this program, which included both academic help and emphasis on pride in Indian identity and history, space was obtained in the basement of an inner-city church to accommodate more students where learning could be more structured. By 1971, the Milwaukee Indian Community School had outgrown these quarters, and the director moved the children into the Coast Guard station soon after the occupation began, eventually taking it over entirely from AIM.

The city did not want to become involved in a squabble over federal land, the Coast Guard did not want to provoke an incident where children were concerned, and the Interior Department, although concerned with Indian Bureau schools, was not eager to request transfer of jurisdiction over property belonging to another federal agency. The school has thus remained in operation more or less by default, its enrollment increasing and its work supported by private donations and various federal grants. Now accredited, with a professional staff of Indian and non-Indian teachers, the school has become terribly overcrowded. Meanwhile, the city of Milwaukee accepted title to the old Coast Guard property for park use, provided that it can find new quarters acceptable to the school's board of directors by 1981. Otherwise title will revert to the federal government and other arrangements will have to be explored. The problems of adjustment to city schools have led to the development of alternative schools for Indian children in many cities around the country.

About a year after the Coast Guard occupation, the Milwaukee

school administration, in cooperation with Indian parents, started the We Indians program in neighborhood schools with high Indian enrollments. The program offers extracurricular cultural activities as educational support for Indian children and promotes cross-cultural understanding for non-Indian children.

When the Caravan of Broken Treaties passed through Milwaukee in 1972, on its way to Washington, D.C., AIM still occupied part of the Coast Guard facility and the Caravan headquartered there. In 1978 the so-called "Longest Walk" gathered a large intertribal coterie as it moved from San Francisco to Washington, D.C. The walk received little publicity compared to the Caravan in 1972 and the protest at Wounded Knee in 1973, even before either of these escalated into violence. Although Indian people sympathetic to the Longest Walk claimed there was a conspiracy of silence against Indians in the media, it may simply be that demonstrations and occupations have run their course as effective tactics and no longer constitute saleable news.

During the 1970's the pattern in Wisconsin typified the national picture: Indian students badgered university administrations for Indian counselors and programs in Indian studies and languages; Indian groups protested the display of sacred objects and Indian skeletons in museums; Indians called attention to urban problems of housing, discriminatory treatment by law enforcement agencies, health needs, and other issues. Perhaps the greatest achievement amidst all the strident agitation and unpublicized quiet pressure by Indian people in the 1970's was the federal government's gradual realization it could not just forget Indians who lived in the cities. (In this connection, the new Indian health facility in Milwaukee deserves special notice as a model agency—founded, and largely staffed, by Indian people.) Both on the reservations and in the cities, Indians have learned to tap federal and state funding to which they are entitled. Indians are becoming well-informed about various federal title programs, cost sharing, and other aspects of grantsmanship, and are learning—sometimes by their mistakes, as other groups have learned—the responsibilities of fiscal accountability.

The Issue of Treaties

ALONG with all the new opportunities being explored, Indian attention has continued to be focused on treaties. During the 1950's and 1960's, when Indians cried out against the abrogation of treaties with regard to termination and land seized for dams and other pur-

poses, a good many of the lawyers who represented tribal clients, while sympathetic, were of the opinion that treaties were a forlorn hope. Such is no longer the case. Instead of simply protesting to Congress, Indian people have begun turning to the courts, which are taking a fresh look at the old treaties.

Wisconsin provided a significant and early example of this trend. In 1962, a Menominee was arrested for hunting out of season. The case moved up from court to court on appeal, with the state wildlife authorities arguing that since the Menominee reservation had become a county, the Indian's former treaty rights no longer applied. The defendant's attorneys argued that if this were the case, then the Menominee had been deprived of a precious right for which they should be compensated by the government. The case eventually reached the U.S. Supreme Court, which ruled in 1967 that since the termination legislation had not made it explicit that hunting rights were extinguished, these treaty rights were still valid.

Inspired by this ruling, the Menominees' attorneys are undertaking litigation in the U.S. Court of Claims concerning, among other issues, the legality of taxes imposed by the State of Wisconsin during the termination period, since the obligation to pay state taxes also was not given explicit notice in the termination act. Although this case is still pending, recent rulings in lower courts outside of Wisconsin have denied states the right to levy certain taxes on Indians as abrogations of rights granted by the federal government.

It is possible that the government itself, albeit unintentionally, helped to strengthen the treaty issue through the Indian Claims Commission. Early in the proceedings, the Justice Department (which defends the United States in such cases) tried to get all "aboriginal title" cases dismissed, arguing that valid title existed only if it was formally recognized by the government, as in treaties. The Commission allowed aboriginal title claims as well as treaty claims, but the fact remained that the Justice Department recognized treaties as significant legal instruments.

In both Wisconsin and Michigan, treaty fishing rights have loomed importantly for the Chippewa on Lake Superior. A general rule of law holds that courts must be guided by the best available evidence as to the Indians' understanding of their treaties at the time they were made, because most treaties entailed translations from English into native languages. In 1971, a test case pursued by Wisconsin Judicare dealt with the sale of fish taken out of season in a slough on the Bad River Reservation. Linguistic evidence indicated that no single word in Chippewa covers fishing as a whole, so the convenient catchall word which means "general foraging" with

any kind of device for any purpose was probably used to translate the treaty wording, "hunting and fishing." Historical documentation clearly showed that the Indians had fished commercially long before the treaty of 1854. In 1972, the Wisconsin Supreme Court upheld the treaty meaning of "fishing" as including Lake Superior.

An unusual variation on the question of Indian hunting occurred in Wisconsin among the Winnebago, who have no treaty setting aside a reservation where they possess hunting and fishing rights. The Winnebago's traditional religion requires venison at ritual feasts. By quiet persuasion, the Winnebago gained the full cooperation of the Department of Natural Resources (DNR) and were able to get a bill passed by the Wisconsin legislature in 1978 which allows them to hunt deer out of season—but with restrictions the Winnebago spelled out to prevent anyone from using the argument of religion as an excuse for poaching. Designated elders must notify the DNR twenty-four hours in advance of a hunt, indicating the number of hunters, the area to be hunted, the type of weapons to be used, and how many deer will be sought. In fact the number of deer the Winnebago use in connection with their rituals is negligible compared to annual road kills and deer shot out of season under permits issued to farmers to prevent crop damage, and the law simply means that Winnebago people can at last practice their tribal religion without fear of arrest.

Among various other matters currently at issue on the Indian scene are questions about the extent of tribal jurisdiction in prosecuting non-Indians for offenses committed on reservations. (No such cases have arisen in Wisconsin to date, and the subject is relevant only for the Menominee, the only reservation with a tribal court, because the Restoration Committee managed to have the reservation exempted from Public Law 280.) A more direct concern about tribal jurisdiction in Wisconsin is the posting of reservations against trespass, particularly Lac Court Oreilles and Bad River, and requiring non-Indians to buy special permits to hunt or fish on reservation land and waters.

Strong opposition to Indian treaty cases has come from white sportsmen's groups, which contend that under the excuse of treaties Indians will wipe out the fish and game indiscriminately and that, furthermore, tribal governments and reservations are nineteenth-century anomalies that ought to be abolished to make Indians "equal" with everyone else. Actually, tribal governments have undertaken conservation measures of their own, based upon traditional practices, and they maintain that since reservations are Indian property, the posting and usufruct fees are no different than

the rights that white landowners enjoy. What complicates the situation is the result of allotment, whereby the proprietors of vacation resorts who own land within reservation boundaries fear loss of business if their customers must buy both state and reservation permits or are intimidated by the thought of entering the territory of hostile Indians.

During the 1970's a marked change has occurred in public attitudes toward Indians, promoted by interests with a potential stake in Indian resources. As long as the myth prevailed that the Indians were vanishing, most non-Indians were well-disposed toward Indians and expressed sympathy and even guilt about their "plight," whatever that cliche signified in the public mind. Now that it is obvious that Indians are here to stay, and plan to remain Indians, and are even winning a few rounds in the courts, a white backlash is developing on those points of law which have enabled Indians to regain or manage to hold onto things that other people want. It is not only sportsmen and the commercial fishing interests which seek to abolish reservations and treaty rights. In the western states particularly, where it has been determined that Indian reservations contain heretofore unsuspected mineral riches, the various tribes involved have formed a consortium and retained high-powered legal counsel to protect their interests and the integrity of their land when considering contracts with mining companies. Meanwhile, an anti-Indian lobby is gaining strength to oppose them. The best known of these is the Interstate Congress on Equal Rights and Responsibilities, but similar groups are springing up elsewhere, including the Citizens League for Equal Rights, which is active in Wisconsin.

Fate again seems to have decided to make Wisconsin representative of major developments on the national Indian scene. In 1976, an extremely rich deposit of copper and zinc was discovered in northern Wisconsin in an area which included the Mole Lake Chippewa Reservation. While neighboring white landowners jumped at the first offers of contracts to explore for minerals, the Indians argued and debated among themselves. On the basis of advice from a mining consultant they retained, the Mole Lake Chippewa plan to conduct their own exploratory survey and invite mining companies to make bids. At present, they are also investigating whether they still have a residual claim on twelve square miles of land in the area which was promised in their treaty of 1855 but never set aside for them. Significantly, they are weighing the vision of sudden, unexpected wealth against the destructive impact of mining on the environment.

Finally, of special importance in understanding Indian affairs in

the 1970's, there was Public Law 93-580, which established the American Indian Policy Review Commission. The Commission's multivolume report, published in the spring of 1977, is reminiscent of the massive survey undertaken in 1928 under the directorship of Lewis Meriam—but with some significant differences. The Commission was chaired by Senator James Abourezk of South Dakota with Representative Lloyd Meeds of Washington serving as vice-chairman. The ten other commissioners included two Senators, three Congressmen, and five Indians, among them Ada Deer of Wisconsin and a former Indian Commissioner, Louis Bruce. The executive staff was directed by Ernest Stevens, a Wisconsin Oneida, and Indians comprised a majority among the Commission's staff and auxiliary bodies.

The Commission's report doubtless will serve as a basic reference work in the years to come, but its special historic value is that it lays bare the clash of opinions in the 1970's on the interpretation of Indian "sovereignty" and the strength of political expediency where Indian affairs are concerned. By the time the report was completed, Vice-Chairman Meeds had arrived at a position which had undergone significant alteration since he had helped champion the Menominee in their drive for restoration in 1973. His dissenting view is published at the end of the report. There he accuses the Commission of lacking objectivity and going "too far" in its recommendations. Chairman Abourezk then adds his rejoinder, disputing the arguments and criticisms put forth by Meeds. The five Indian Commissioners add a brief final statement in defense of the report. It is Congressman Meeds's opinion that the Commission's zeal to right old wrongs compromises "the rights of the non-Indian majority . . . to support tribal aspirations." The idea is worth pondering, but it should be considered in the context that while serving on the Commission, Meeds was very nearly defeated for reelection by white voters who were exercised over Indian gains in the Far West.

Meeds was among the sponsors of a number of bills introduced in the U.S. House and Senate in 1978 which, in effect, are the termination policy all over again. Although the bills were probably intended more as window dressing for constituents at home than as serious legislation, Indian people feel they cannot afford to be complacent despite the major thrust of the Commission's report as a guide to future policy.

The Commission's recommendations generally emphasize trends set in motion since the late 1960's. They stress community self-determination without fear of termination, and cite the need for new legislation and clarification and amendment of existing statutes. A matter that disturbed Congressman Meeds was the recommenda-

tion that Indians not under federal jurisdiction or eligible for federal benefits be brought under the federal umbrella if they so wished—including terminated tribes, those simply overlooked early in the country's development, or those not residing on federal land. Meede's argument against including *more* Indians was economic, an idea the other Commissioners rejected as a poor excuse for perpetuating injustices and inequities that were accidents of history. The fact that Indians who were securely recognized by the federal government were concerned about all other Indians was already evident by 1961, when inclusion of "city Indians" and non-recognized tribes under federal jurisdiction was recommended at the American Indian Chicago Conference.

Indian people have an unassailable argument for a policy to support self-determination: It is worth a try, since nothing the government has decided for Indians has done them much good. Indian people are particularly sensitive to the fact that the present availability of "soft" money from various sources is essential for them to get moving; but it might not last, and they are eager for rational, self-sustaining community development wherever possible. Wisconsin's Menominee, of course, are exceptional even on a national scale, and are expanding and diversifying their industrial potential following the setback of termination. For most tribes, tourism holds great promise. The Stockbridge began a craft project in the 1960's which has expanded into a tribal archive and cultural center. The Oneida opened a first-rate tribal museum in the spring of 1979 and other tribes are also planning museums and cultural centers for their own purposes and to attract visitors. The Winnebago tribe, many of whose members were long employed by white business as a tourist attraction at Wisconsin Dells, took over direct management of the Stand Rock Ceremonial in the summer of 1979. Small, clean industries such as a fish hatchery at Lac du Flambeau and manufacturing plants elsewhere are also under development or in the planning stages. Present observations of older Indian people suggest that with so many Indian people employed regularly in the cities, reservations might reap double benefits in time, as retirement communities in which pensioners would consume Indian-produced goods and also contribute to advancing various cultural activities relating to tribal traditions.

While looking hopefully toward a more sensitive and meaningful federal policy, the Indians of Wisconsin and other states are also developing better relationships with state governments, particularly in the areas of education, health, employment, welfare, and resource management. Although a State Indian Commission was

not set up as requested during the Winter Dam occupation, there is now a state Indian Legal Defense service augmenting the federal Judicare program, particularly where Judicare does not have jurisdiction. An Indian serves in a liaison capacity between the tribes and the Wisconsin Department of Natural Resources, and increasing numbers of Indian people have been appointed to various state boards and agencies as well as serving on the faculties of both state and private colleges and universities in Wisconsin.

Much hard and dedicated work lies ahead for Wisconsin Indian people, and inevitably there will be more growing pains as they endeavor to make effective use of new opportunities. Intra-tribal disputes such as the peaceful demonstrations at Bad River in the summer of 1979 are still labeled "factionalism" in the news media, but it should be borne in mind that democracy as Americans know it rests on a party system, and that Indian communities are just beginning to exercise genuine self-determination. The picture is much changed since the first version of this publication was issued in 1969. That it is generally brighter has been due to Indian efforts in their own behalf.

REFERENCE MATERIAL

The items listed here are given in this form so they can be found easily in library author and title catalogs which use the systems of the Library of Congress and the U.S. Superintendent of Documents. When using subject headings in library catalogs, beginning researchers will find the following categories useful: the tribes' individual names, for example "Menominee" and "Winnebago"; Indians of North America; Indians of North America—Wisconsin; Indians of North America—Great Lakes; Indians of North America—Mississippi Valley; and Indians of North America—Government Relations.

American Academy for Political and Social Science, *Annals,* vol. 436, March, 1978, entitled *American Indians Today* and entirely devoted to contemporary Indian issues, and vol. 311, May, 1957, entitled *American Indians and American Life,* which has been republished separately by the Kraus Reprint Company, Route 100, Millwood, New York 10546.

Handbook of North American Indians, William C. Sturtevant, gen. ed. (Smithsonian Institution, 1978), vol. 15, the Northeast. This encyclopedic reference work summarizes the history and ethnology of the Eastern Sioux, and it contains an exhaustive bibliography. It is an indispensable reference work, and it can be purchased from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402, as Stock Number 047-000-00351-2, for $14.50.

William H. Hodge, "The Indians of Wisconsin," in Wisconsin, *Blue Book,* 1975, pp. 95-192, including a bibliography and reading lists of standard works about Wisconsin's Indians.

Charles J. Kappler, comp., *Indian Affairs: Laws and Treaties* (2 vols., Washington, 1904 edition), the second volume of which in-

65

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Charles C. Royce, comp., *Indian Land Cessions in the United States,* with an introduction by Cyrus Thomas, in U.S., Bureau of American Ethnology, *Annual Report,* 1897 (volume 18, part 2). This work also appears as U.S., 56th Cong., 1st Sess., House Document 736, serial set 4014 and 4015.

U.S., American Indian Policy Review Commission, *Final Report* (2 vols., 1977). The second volume is devoted largely to a bibliography.

Wilcomb E. Washburn, *Red Man's Land/White Man's Law: A Study of the Past and Present Status of the American Indian* (New York, 1971).

Wisconsin, Governor's Commission on Human Rights, *Handbook on Wisconsin Indians,* by Joyce M. Erdman (1952 and 1966).

In addition, the author has maintained an extensive clipping file over the last ten years, especially including articles about contemporary events from the *Milwaukee Journal* and *Milwaukee Sentinel.* The file was used liberally in preparing this study.

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Milwaukee Journal Photo

Indian children at the site of a demonstration by Lac Court Oreilles Chippewa against the building of a dam on the Chippewa Flowage, Sawyer County, 1971.

Other titles from
the State Historical Society of Wisconsin:

Finns in Wisconsin, by Mark Knipping. Illus., 40 pages, $1.25.

Norwegians in Wisconsin, by Richard J. Fapso. Illus., 40 pages, $1.25.

Germans in Wisconsin, by Richard Zeitlin. Illus., 32 pages, $1.25.

Black Settlers in Rural Wisconsin, by Zachary Cooper. Illus., 28 pages, $1.25.

Genealogical Research: An Introduction to the Resources of the State Historical Society of Wisconsin, ed. by James P. Danky. 56 pages, $3.00.

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